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[DISCUSSION DRAFT]

May 12, 1986/9:00 a.m.

1 SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

2 (a) SHORT TITLE.--This Act may be cited as the ``Federal
3 Employees' Retirement System Act of 1986``.

4 (b) TABLE OF CONTENTS.--The table of contents is as
5 follows:

TABLE OF CONTENTS

Sec. 1. Short title; table of contents.

Sec. 2. Purposes.

TITLE I--FEDERAL EMPLOYEES' RETIREMENT SYSTEM

Sec. 101. Establishment.

TITLE II--OTHER AMENDMENTS TO TITLE 5 OF THE UNITED STATES CODE

Sec. 201. Treatment under Civil Service Retirement System of
certain individuals excluded from Federal
Employees' Retirement System.

Sec. 202. Non-applicability of Civil Service Retirement
System to individuals under Federal Employees'
Retirement System.

Sec. 203. Pay for the Executive Director of the Federal
Retirement Thrift Investment Board.

Sec. 204. Alternative forms of annuities.

Sec. 205. Retirement counseling.

Sec. 206. Miscellaneous amendments.

TITLE III--MISCELLANEOUS PROVISIONS RELATING TO THE FEDERAL
EMPLOYEES' RETIREMENT SYSTEM AND THE CIVIL SERVICE RETIREMENT
SYSTEM

Sec. 301. Elections.

Sec. 302. Effect of an election under section 301 to become
subject to the Federal Employees' Retirement
System.

Sec. 303. Provisions relating to an election to become

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subject to chapter 83 subject to certain offsets relating to Social Security.

Sec. 304. Amendments relating to Social Security.

Sec. 305. Extension of Federal Employees Retirement Contribution Temporary Adjustment Act of 1983; refund of excess contributions.

Sec. 306. Applicability to the United States Postal Service.

Sec. 307. Use of normal-cost percentage.

Sec. 308. Retirement study.

Sec. 309. Repeal of automatic transfer provision.

[TITLE IV--FOREIGN SERVICE PROVISIONS TO BE PROVIDED]

[TITLE V--CENTRAL INTELLIGENCE AGENCY PROVISIONS TO BE PROVIDED]

[TITLE VI--AUTHORIZATION OF APPROPRIATIONS; EFFECTIVE DATES]

Sec. 601. Authorization of appropriations for certain expenses of the Federal Retirement Thrift Investment Management System.

Sec. 602. Effective dates.]

1 SEC. 2. PURPOSES.

2 The purposes of this Act are--

3 (1) to establish a Federal employees' retirement plan
4 which is coordinated with title II of the Social Security
5 Act;

6 (2) to ensure a fully funded and financially sound
7 retirement benefits plan for Federal employees;

8 (3) to enhance portability of retirement assets
9 earned as an employee of the Federal Government;

10 (4) to provide options for Federal employees with
11 respect to retirement planning;

12 (5) to assist in building a quality career work force
13 in the Federal Government;

14 (6) to encourage Federal employees to increase

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1 personal savings for retirement; and
 2 (7) to extend financial protection from disability to
 3 additional Federal employees and to increase such
 4 protection for eligible Federal employees.

5 TITLE I--FEDERAL EMPLOYEES' RETIREMENT SYSTEM

6 SEC. 101. ESTABLISHMENT.

7 (a) IN GENERAL.--Title 5, United States Code, is amended
 8 by inserting after chapter 83 the following new chapter:

9 [``CHAPTER 84--FEDERAL EMPLOYEES' RETIREMENT SYSTEM

 ``SUBCHAPTER I--GENERAL PROVISIONS

 ``Sec.
 ``8401. Definitions.
 ``8402. Federal Employees' Retirement System; exclusions.
 ``8403. Relationship to the Social Security Act.

 ``SUBCHAPTER II--BASIC ANNUITY

~~8410. Eligibility for annuity.~~
 ~~8411. Creditable service.~~
 ~~8412. Immediate retirement.~~
 ~~8413. Deferred retirement.~~
 ~~8414. Early retirement.~~
 ~~8415. Computation of basic annuity.~~
 ~~8416. Survivor reduction for a current spouse.~~
 ~~8417. Survivor reduction for a former spouse.~~
 ~~8418. Survivor elections; deposit; offsets.~~
 ~~8419. Survivor reductions; computation.~~
 ~~8420. Insurable interest reductions.~~
 ~~8420a. Alternative forms of annuities.~~
 ~~8421. Supplementary annuity payment.~~
 ~~8422. Deductions from pay; contributions for military
 service.~~
 ~~8423. Government contributions.~~
 ~~8424. Lump-sum benefits; designation of beneficiary; order
 of precedence.~~
 ~~8425. Mandatory separation.~~

 ``SUBCHAPTER III--[TO BE PROVIDED]

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``SUBCHAPTER IV--SURVIVOR ANNUITIES

- ``8441. Definitions.
- ``8442. Rights of a widow or widower.
- ``8443. Rights of a child.
- ``8444. Rights of a named individual with an insurable interest.
- ``8445. Rights of a former spouse.

``SUBCHAPTER V--DISABILITY BENEFITS

- ``8451. Disability retirement.
- ``8452. Computation of disability annuity.
- ``8453. Application.
- ``8454. Medical examination.
- ``8455. Recovery; restoration of earning capacity.
- ``8456. Relationship to workers' compensation.
- ``8457. Military reserve technicians.

``SUBCHAPTER VI--GENERAL AND ADMINISTRATIVE PROVISIONS

- ``8461. Authority of the Office of Personnel Management.
- ``8462. Cost-of-living adjustments.
- ``8463. Rate of benefits.
- ``8464. Commencement and termination of annuities of employees and Members.
- ``8465. Waiver, allotment, and assignment of benefits.
- ``8466. Application for benefits.
- ``8467. Court orders.
- ``8468. Annuities and pay on reemployment.
- ``8469. Withholding of State income taxes.
- ``8470. Exemption from legal process; recovery of payments.

``SUBCHAPTER VII--[TO BE PROVIDED]

``SUBCHAPTER I--GENERAL PROVISIONS

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2 ``§8401. Definitions

3 ``For the purpose of this chapter--

4 [``(1) the term 'account' means an account

5 established and maintained under section 8435(a) of this

6 title;]

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1 “(2) the term ‘annuitant’ means a former employee or
2 Member who, on the basis of that individual’s service,
3 meets all requirements for title to an annuity under
4 subchapter II or V of this chapter and files claim
5 therefor;

6 “(3) the term ‘average pay’ means the largest annual
7 rate resulting from averaging an employee’s or Member’s
8 rates of basic pay in effect over any 3 consecutive years
9 of service or, in the case of an annuity under this
10 chapter based on service of less than 3 years, over the
11 total service, with each rate weighted by the period it
12 was in effect;

13 “(4) except as provided in subchapter III, the term
14 ‘basic pay’ has the meaning given such term by section
15 8331(3) of this title;

16 [“(5) the term ‘Board’ means the Federal Retirement
17 Thrift Investment Board established by section 8472(a) of
18 this title;]

19 “(6) the term ‘Civil Service Retirement and
20 Disability Fund’ or ‘Fund’ means the Civil Service
21 Retirement and Disability Fund under section 8348 of this
22 title;

23 [“(7) the term ‘court’ means any court of any State,
24 the District of Columbia, the Commonwealth of Puerto
25 Rico, Guam, the Northern Mariana Islands, or the Virgin

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1 Islands, and any Indian court;]

2 `` (8) the term `Director' means the Director of the
3 Office of Personnel Management;

4 `` (9) the term `dynamic assumptions' means economic
5 assumptions that are used in determining actuarial costs
6 and liabilities of a retirement system and in
7 anticipating the effects of long-term future--

8 `` (A) investment yields;

9 `` (B) increases in rates of basic pay; and

10 `` (C) rates of price inflation;

11 [`` (10) the term `earnings', when used with respect
12 to the Thrift Savings Fund, means the amount of the gain
13 realized or yield received from the investment of sums in
14 such Fund;]

15 `` (11) the term `employee' means--

16 `` (A) an individual referred to in subparagraph
17 (A), (E), (F), (H), (I), or (J) of section 8331(1) of
18 this title; and

19 `` (B) a Congressional employee as defined in
20 section 2107 of this title, including a temporary
21 Congressional employee and an employee of the
22 Congressional Budget Office;
23 any of whose service after December 31, 1983, is
24 employment for the purposes of title II of the Social
25 Security Act and chapter 21 of the Internal Revenue Code

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1 of 1954, except that such term does not include--

2 `` (i) any individual referred to in--

3 `` (I) clause (i), (v), (vi), or (ix) of
4 paragraph (1) of section 8331 of this title;

5 `` (II) clause (ii) of such paragraph (other
6 than an employee of the United States Park
7 Police, or the United States Secret Service, any
8 of whose service after December 31, 1983, is such
9 employment); or

10 `` (III) the undesignated material after the
11 last clause of such paragraph; or

12 `` (ii) any individual excluded under section
13 8402(c) of this title;

14 `` (12) the term 'former spouse' means a former spouse
15 of an individual--

16 `` (A) if such individual performed at least 18
17 months of civilian service creditable under section
18 8411 of this title as an employee or Member; and

19 `` (B) if the former spouse was married to such
20 individual for at least 9 months;

21 `` (13) the term 'Executive Director' means the
22 Executive Director appointed under section 8474(a) of
23 this title;

24 `` (14) the term 'firefighter' means--

25 `` (A) an employee, the duties of whose position--

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1 ``(i) are primarily to perform work directly
2 connected with the control and extinguishment of
3 fires; and

4 ``(ii) are sufficiently rigorous that
5 employment opportunities are required to be
6 limited to young and physically vigorous
7 individuals, as determined by the Director
8 considering the recommendations of the employing
9 agency; and

10 ``(B) an employee who is transferred directly to
11 a supervisory or administrative position after
12 performing duties described in subparagraph (A) for
13 at least 10 years;

14 ``(15) the term 'Government' means the Federal
15 Government and Gallaudet College;

16 ``(16) the term 'Indian court' has the meaning given
17 such term by section 8331(24) of this title;

18 ``(17) the term 'law enforcement officer' means--

19 ``(A) an employee, the duties of whose position--

20 ``(i) are primarily--

21 ``(I) the investigation, apprehension, or
22 detention of individuals suspected or
23 convicted of offenses against the criminal
24 laws of the United States, or

25 ``(II) the protection of officials of the

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1 United States against threats to personal
2 safety; and

3 `` (ii) are sufficiently rigorous that
4 employment opportunities are required to be
5 limited to young and physically vigorous
6 individuals, as determined by the Director
7 considering the recommendations of the employing
8 agency;

9 `` (B) an employee who is transferred directly to
10 a supervisory or administrative position after
11 performing duties described in subparagraph (A) for
12 at least 10 years; and

13 `` (C) an employee--

14 `` (i) of the Bureau of Prisons or Federal
15 Prison Industries, Incorporated;

16 `` (ii) of the Public Health Service assigned
17 to the field service of the Bureau of Prisons or
18 of the Federal Prison Industries, Incorporated;
19 or

20 `` (iii) in the field service at Army or Navy
21 disciplinary barracks or at any other confinement
22 and rehabilitation facility operated by any of
23 the armed forces;
24 whose duties in connection with individuals in
25 detention suspected or convicted of offenses against

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1 the criminal laws of the United States or of the
2 District of Columbia or offenses against the punitive
3 articles of the Uniform Code of Military Justice
4 (chapter 47 of title 10) require frequent direct
5 contact with these individuals in their detention and
6 are sufficiently rigorous that employment
7 opportunities are required to be limited to young and
8 physically vigorous individuals, as determined by the
9 head of the employing agency;

10 ``(18) the term `loss`, when used with respect to
11 the Thrift Savings Fund, means the amount of the loss
12 resulting from the investment of sums in such Fund;]

13 ``(19) the term `lump-sum credit` means the
14 unrefunded amount consisting of--

15 ``(A) retirement deductions made from the basic
16 pay of an employee or Member under section 8422(a) of
17 this title (or under section 204 of the Federal
18 Employees' Retirement Contribution Temporary
19 Adjustment Act of 1983);

20 ``(B) amounts deposited by an employee or Member
21 under section 8422(e) of this title; and

22 ``(C) interest on the deductions and deposits
23 which, for any calendar year, shall be equal to the
24 overall average yield to the Fund during the
25 preceding fiscal year from all obligations purchased

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1 by the Secretary of the Treasury during such fiscal
2 year under section 8348(c), (d), and (e) of this
3 title, as determined by the Secretary;
4 but does not include interest--

5 `` (i) if the service covered thereby aggregates 1
6 year or less; or

7 `` (ii) for a fractional part of a month in the
8 total service;

9 `` (20) the term 'Member' has the same meaning as
10 provided in section 2106 of this title, except that such
11 term does not include an individual who irrevocably
12 elects, by written notice to the official by whom such
13 individual is paid, not to participate in the Federal
14 Employees' Retirement System;

15 [`` (21) the term 'net earnings' means the excess of
16 earnings over losses;]

17 [`` (22) the term 'net losses' means the excess of
18 losses over earnings;]

19 `` (23) the term 'normal-cost percentage' means the
20 entry-age normal cost of the provisions of the System
21 which relate to the Fund, computed by the Office in
22 accordance with generally accepted actuarial practice and
23 standards (using dynamic assumptions) and expressed as a
24 level percentage of aggregate basic pay;

25 `` (24) the term 'Office' means the Office of

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1 Personnel Management;

2 `` (25) the term 'price index' has the same meaning as
3 provided in section 8331(15) of this title;

4 `` (26) the term 'service' means service which is
5 creditable under section 8411 of this title;

6 `` (27) the term 'supplemental liability' means the
7 estimated excess of--

8 `` (A) the actuarial present value of all future
9 benefits payable from the Fund under this chapter
10 based on the service of current or former employees
11 or Members, over

12 `` (B) the sum of--

13 `` (i) the actuarial present value of
14 deductions to be withheld from the future basic
15 pay of employees and Members currently subject to
16 this chapter pursuant to section 8422;

17 `` (ii) the actuarial present value of the
18 future contributions to be made pursuant to
19 section 8423(a) with respect to employees and
20 Members currently subject to this chapter;

21 `` (iii) the Fund balance as of the date the
22 supplemental liability is determined, to the
23 extent that such balance is attributable--

24 `` (I) to the System, or

25 `` (II) to contributions made under the

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1 Federal Employees' Retirement Contribution
2 Temporary Adjustment Act by or on behalf of
3 an individual who became subject to the
4 System; and

5 "(iv) any other appropriate amount, as
6 determined by the Office in accordance with
7 generally accepted actuarial practices and
8 principles;

9 "(28) the term 'survivor' means an individual
10 entitled to an annuity under subchapter IV of this
11 chapter;

12 "(29) the term 'System' means the Federal Employees'
13 Retirement System described in section 8402(a) of this
14 title;

15 "(30) the term 'military reserve technician' means a
16 member of one of the reserve components of the armed
17 forces specified in section 261(a) of title 10 who--

18 "(A) is assigned to a civilian position as a
19 technician in the administration and training of such
20 reserve components or in the maintenance and repair
21 of supplies issued to such reserve components; and

22 "(B) as a condition of employment in such
23 position, is required to be a member of one of such
24 reserve components serving in a specified military
25 grade; and

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1 “(31) the term ‘military service’ means honorable
2 active service--

3 “(A) in the armed forces;

4 “(B) in the commissioned corps of the Public
5 Health Service after June 30, 1960; or

6 “(C) in the commissioned corps of the National
7 Oceanic and Atmospheric Administration, or a
8 predecessor entity in function, after June 30, 1961;
9 but does not include service in the National Guard except
10 when ordered to active duty in the service of the United
11 States.

12 “§8402. Federal Employees’ Retirement System; exclusions

13 “(a) The provisions of this chapter comprise the Federal
14 Employees’ Retirement System.

15 “(b) The provisions of this chapter shall not apply with
16 respect to--

17 “(1) any individual who has performed service of a
18 type described in subparagraph (C), (D), (E), or (F) of
19 section 210(a)(5) of the Social Security Act continuously
20 since December 31, 1983 (determined in accordance with
21 the provisions of section 210(a)(5)(B) of the Social
22 Security Act, relating to continuity of employment); or

23 “(2)(A) any employee or Member who has separated
24 from the service after--

25 “(i) having been subject to subchapter III of

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1 chapter 83 of this title; and

2 (ii) having completed at least 5 years of
3 civilian service creditable under such subchapter
4 (determined without regard to any deposit or
5 redeposit requirement under such subchapter, or any
6 requirement that the individual become subject to
7 such subchapter after performing the service
8 involved); or

9 (B) any employee having at least 5 years of
10 civilian service performed before January 1, 1987,
11 creditable under subchapter III of chapter 83 of this
12 title (determined without regard to any deposit or
13 redeposit requirement under such subchapter, any
14 requirement that the individual become subject to such
15 subchapter after performing the service involved, or any
16 requirement that the individual give notice in writing to
17 the official by whom such individual is paid of such
18 individual's desire to become subject to such
19 subchapter);

20 except to the extent provided for under title III of the
21 Federal Employees' Retirement System Act of 1986 pursuant to
22 an election under such title to become subject to this
23 chapter.

24 (c)(1) The Office may exclude from the operation of
25 this chapter an employee or group of employees in or under an

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1 Executive agency, the United States Postal Service, or the
2 Postal Rate Commission, whose employment is temporary or
3 intermittent, except an employee whose employment is
4 part-time career employment (as defined in section 3401(2) of
5 this title).

6 `` (2) The Architect of the Capitol may exclude from the
7 operation of this chapter an employee under the Office of the
8 Architect of the Capitol whose employment is temporary or of
9 uncertain duration.

10 `` (3) The Librarian of Congress may exclude from the
11 operation of this chapter an employee under the Library of
12 Congress whose employment is temporary or of uncertain
13 duration.

14 `` (4) The Director or Acting Director of the Botanic
15 Garden may exclude from the operation of this chapter an
16 employee under the Botanic Garden whose employment is
17 temporary or of uncertain duration.

18 `` §8403. Relationship to the Social Security Act

19 `` Except as otherwise provided in this chapter, the
20 benefits payable under the System are in addition to the
21 benefits payable under the Social Security Act.

22 `` SUBCHAPTER II--BASIC ANNUITY

23 `` §8410. Eligibility for annuity

24 `` Notwithstanding any other provision of this chapter, an
25 employee or Member must complete at least 5 years of civilian

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1 service creditable under section 8411 of this title in order
2 to be eligible for an annuity under this subchapter.

3 ``§8411. Creditable service

4 `` (a)(1) The total service of an employee or Member is
5 the full years and twelfth parts thereof, excluding from the
6 aggregate the fractional part of a month, if any.

7 `` (2) Credit may not be allowed for a period of
8 separation from the service in excess of 3 calendar days.

9 `` (b) For the purpose of this chapter, creditable service
10 of an employee or Member includes--

11 `` (1) employment as an employee, and any service as a
12 Member (including the period from the date of the
13 beginning of the term for which elected or appointed to
14 the date of taking office as a Member), after December
15 31, 1986;

16 `` (2) service with respect to which deductions and
17 withholdings under section 204(a)(1) of the Federal
18 Employees' Retirement Contribution Temporary Adjustment
19 Act of 1983 have been made;

20 `` (3) except as provided in subsection (f), any
21 civilian service (performed before January 1, 1989, other
22 than any service under paragraph (1) or (2)) which, but
23 for the amendments made by subsections (a)(4) and (b) of
24 section 202 of the Federal Employees' Retirement System
25 Act of 1986, would be creditable under subchapter III of

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1 chapter 83 of this title (determined without regard to
2 any deposit or redeposit requirement under such
3 subchapter, any requirement that the individual become
4 subject to such subchapter after performing the service
5 involved, or any requirement that the individual give
6 notice in writing to the official by whom such individual
7 is paid of such individual's desire to become subject to
8 such subchapter); and

9 “(4) a period of service (other than any service
10 under any of the preceding provisions of this subsection
11 and other than any military service) that was creditable
12 under the Foreign Service Pension System described in
13 subchapter II of chapter 8 of the Foreign Service Act of
14 1980, if the employee or Member waives credit for such
15 service under the Foreign Service Pension System and
16 makes a payment to the Fund equal to the amount that
17 would have been deducted from pay under section 8422(a)
18 had the employee been subject to this chapter during such
19 period of service (together with interest on such amount
20 computed under paragraphs (2) and (3) of section
21 8334(e)).

22 “(c)(1) Except as provided in paragraph (2) or (3), an
23 employee or Member shall be allowed credit for--

24 “(A) each period of military service performed
25 before January 1, 1957; and

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1 “(B) each period of military service performed after
2 December 31, 1956, and before the separation on which
3 title to annuity is based, if a deposit (including
4 interest, if any) is made with respect to such period in
5 accordance with section 8422(e) of this title.

6 “(2) If an employee or Member is awarded retired pay
7 based on any period of military service, the service of the
8 employee or Member may not include credit for such period of
9 military service unless the retired pay is awarded--

10 “(A) based on a service-connected disability--

11 “(i) incurred in combat with an enemy of the
12 United States; or

13 “(ii) caused by an instrumentality of war and
14 incurred in line of duty during a period of war as
15 defined by section 301 of title 38; or

16 “(B) under chapter 67 of title 10.

17 “(3) An employee or Member who has made a deposit under
18 section 8334(j) of this title (or a similar prior provision
19 of law) with respect to a period of military service, and who
20 has not taken a refund of such deposit--

21 “(A) shall be allowed credit for such service
22 without regard to the deposit requirement under paragraph
23 (1)(B); and

24 “(B) shall be entitled, upon filing appropriate
25 application therefor with the Office, to a refund equal

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1 . to the difference between--

2 “(i) the amount deposited with respect to such
3 period under such section 8334(j) (or prior
4 provision), excluding interest; and

5 “(ii) the amount which would otherwise have been
6 required with respect to such period under paragraph
7 (1)(B).

8 “(d) Credit under this chapter shall be allowed for
9 leaves of absence without pay granted an employee while
10 performing military service, or while receiving benefits
11 under subchapter I of chapter 81 of this title. An employee
12 or former employee who returns to duty after a period of
13 separation is deemed, for the purpose of this subsection, to
14 have been on leave of absence without pay for that part of
15 the period in which that individual was receiving benefits
16 under subchapter I of chapter 81 of this title. Credit may
17 not be allowed for so much of other leaves of absence without
18 pay as exceeds 6 months in the aggregate in a calendar year.

19 “(e) Credit shall be allowed for periods of approved
20 leave without pay granted an employee to serve as a full-time
21 officer or employee of an organization composed primarily of
22 employees (as defined by section 8331(1) or 8401(11) of this
23 title), subject to the employee arranging to pay, through the
24 employee's employing agency, within 60 days after
25 commencement of such leave without pay, amounts equal to the

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1 retirement deductions and agency contributions which would be
2 applicable under sections 8422(a) and 8423(a) of this title,
3 respectively, if the employee were in pay status. If the
4 election and all payments provided by this subsection are not
5 made, the employee may not receive credit for the periods of
6 leave without pay, notwithstanding the third sentence of
7 subsection (d).

8 “(f)(1) An employee or Member who has received a refund
9 of retirement deductions under subchapter III of chapter 83
10 with respect to any service described in subsection (b)(3)
11 may not be allowed credit for such service under this chapter
12 unless such employee or Member deposits an amount equal to
13 1.3 percent of basic pay for such service, with interest.

14 “(2) An employee or Member may not be allowed credit
15 under this chapter for any service described in subsection
16 (b)(3) for which retirement deductions under subchapter III
17 of chapter 83 have not been made, unless such employee or
18 Member deposits an amount equal to 1.3 percent of basic pay
19 for such service, with interest.

20 “(3) Interest under paragraph (1) or (2) shall be
21 computed in accordance with paragraphs (2) and (3) of section
22 8334(e) and regulations prescribed by the Office.

23 “(4) For the purpose of survivor annuities, deposits
24 authorized by the preceding provisions of this subsection may
25 also be made by a survivor of an employee or Member.

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1 ``§8412. Immediate retirement

2 `` (a) An employee or Member who is separated from the
3 service after attaining the applicable minimum retirement age
4 under subsection (h) and completing 30 years of service is
5 entitled to an annuity.

6 `` (b) An employee or Member who is separated from the
7 service after becoming 60 years of age and completing 20
8 years of service is entitled to an annuity.

9 `` (c) An employee or Member who is separated from the
10 service after becoming 62 years of age and completing 5 years
11 of service is entitled to an annuity.

12 `` (d) An employee who is separated from the service,
13 except by removal for cause on charges of misconduct or
14 delinquency--

15 (1) after completing 25 years of service as a law
16 enforcement officer or firefighter, or any combination of
17 such service totaling at least 25 years, or

18 (2) after becoming 50 years of age and completing 20
19 years of service as a law enforcement officer or
20 firefighter, or any combination of such service totaling
21 at least 20 years,
22 is entitled to an annuity.

23 `` (e) An employee who is separated from the service,
24 except by removal for cause on charges of misconduct or
25 delinquency--

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1 ``(1) after completing 25 years of service as an air
2 traffic controller, or

3 ``(2) after becoming 50 years of age and completing
4 20 years of service as an air traffic controller,
5 is entitled to an annuity.

6 ``(f) A Member who is separated from the service, except
7 by resignation or expulsion--

8 ``(1) after completing 25 years of service, or

9 ``(2) after becoming 50 years of age and completing
10 20 years of service,
11 is entitled to an annuity.

12 ``(g) An employee or Member who is separated from the
13 service after attaining the applicable minimum retirement age
14 under subsection (h) and completing 10 years of service is
15 entitled to an annuity. This subsection shall not apply to an
16 employee or Member who is entitled to an annuity under any
17 other provision of this section.

18 ``(h)(1) The applicable minimum retirement age under this
19 subsection is--

20 ``(A) for an individual whose date of birth is before
21 January 1, 1948, 55 years of age;

22 ``(B) for an individual whose date of birth is after
23 December 31, 1947, and before January 1, 1953, 55 years
24 of age plus the number of months in the age increase
25 factor determined under paragraph (2)(A);

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1 ``(C) for an individual whose date of birth is after
2 December 31, 1952, and before January 1, 1965, 56 years
3 of age;

4 ``(D) for an individual whose date of birth is after
5 December 31, 1964, and before January 1, 1970, 56 years
6 of age plus the number of months in the age increase
7 factor determined under paragraph (2)(B); and

8 ``(E) for an individual whose date of birth is after
9 December 31, 1969, 57 years of age.

10 ``(2)(A) For an individual whose date of birth occurs
11 during the 5-year period consisting of calendar years 1948
12 through 1952, the age increase factor shall be equal to two-
13 twelfths times the number of months in the period beginning
14 with January 1948 and ending with December of the year in
15 which the date of birth occurs.

16 ``(B) For an individual whose date of birth occurs during
17 the 5-year period consisting of calendar years 1965 through
18 1969, the age increase factor shall be equal to two-twelfths
19 times the number of months in the period beginning with
20 January 1965 and ending with December of the year in which
21 the date of birth occurs.

22 ``§8413. Deferred retirement

23 ``(a) An employee or Member who is separated from the
24 service, or transferred to a position in which the employee
25 or Member does not continue subject to this chapter, after

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1 completing 5 years of service is entitled to an annuity
2 beginning at the age of 62 years.

3 “(b)(1) An employee or Member who is separated from the
4 service, or transferred to a position in which the employee
5 or Member does not continue subject to this chapter, after
6 completing 10 years of service is entitled to an annuity
7 beginning on the date designated by the employee or Member in
8 a written election under this subsection. The date designated
9 under this subsection may not precede the date on which the
10 employee or Member attains the applicable minimum retirement
11 age under section 8412(h) of this title and must precede the
12 date on which the employee or Member becomes 62 years of age.

13 “(2) The election of an annuity under this subsection
14 shall not be effective unless--

15 “(A) it is made at such time and in such manner as
16 the Office shall by regulation prescribe; and

17 “(B) the employee or Member will not otherwise be
18 eligible to receive an annuity within 31 days after
19 filing the election.

20 “(3) The election of an annuity under this subsection
21 extinguishes the right of the employee or Member to receive
22 any other annuity based on the service on which the annuity
23 under this subsection is based.

24 “§8414. Early retirement

25 “(a)(1) A member of the Senior Executive Service who is

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1 removed from the Senior Executive Service for less than fully
2 successful executive performance (as determined under
3 subchapter II of chapter 43 of this title) after completing
4 25 years of service, or after becoming 50 years of age and
5 completing 20 years of service, is entitled to an annuity.

6 “(2) A member of the Defense Intelligence Senior
7 Executive Service or the Senior Cryptologic Executive Service
8 who is removed from such service for less than fully
9 successful executive performance after completing 25 years of
10 service, or after becoming 50 years of age and completing 20
11 years of service, is entitled to an annuity.

12 “(b)(1) Except as provided in paragraphs (2) and (3), an
13 employee who--

14 “(A) is separated from the service involuntarily,
15 except by removal for cause on charges of misconduct or
16 delinquency; or

17 “(B) while serving in a geographic area designated
18 by the Director, is separated from the service
19 voluntarily during a period in which (as determined by
20 the Director)--

21 “(i) the agency in which the employee is serving
22 is undergoing a major reorganization, a major
23 reduction in force, or a major transfer of function;
24 and

25 “(ii) a significant percentage of the total

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1 number of employees serving in such agency will be
2 separated or subject to an immediate reduction in the
3 rate of basic pay (without regard to subchapter VI of
4 chapter 53 of this title or comparable provisions);
5 after completing 25 years of service, or after becoming 50
6 years of age and completing 20 years of service, is entitled
7 to an annuity.

8 “(2) An employee under paragraph (1) who is separated as
9 described in subparagraph (A) of such paragraph is not
10 entitled to an annuity under this subsection if the employee
11 has declined a reasonable offer of another position in the
12 employee's agency for which the employee is qualified, and
13 the offered position is not lower than 2 grades (or pay
14 levels) below the employee's grade (or pay level) and is
15 within the employee's commuting area.

16 “(3) Paragraph (1) shall not apply to an employee
17 entitled to an annuity under subsection (d) or (e) of section
18 8412 of this title.

19 “(c) A military reserve technician who is separated from
20 technician service, after becoming 50 years of age and
21 completing 25 years of service, by reason of ceasing to
22 satisfy the condition described in section 8401(30)(B) is
23 entitled to an annuity.

24 “§8415. Computation of basic annuity

25 “(a) Except as otherwise provided in this section, the

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1 annuity of an employee retiring under this subchapter is 1
2 percent of that individual's average pay multiplied by such
3 individual's total service.

4 "(b) The annuity of a Member, or former Member with
5 title to a Member annuity, retiring under this subchapter is
6 computed under subsection (a), except that if the individual
7 has had at least 5 years of service as a Member or
8 Congressional employee, or any combination thereof, so much
9 of the annuity as is computed with respect to either such
10 type of service (or a combination thereof), not exceeding a
11 total of 20 years, shall be computed by multiplying 1 7/10
12 percent of the individual's average pay by the years of such
13 service.

14 "(c) The annuity of a Congressional employee, or former
15 Congressional employee, retiring under this subchapter is
16 computed under subsection (a), except that if the individual
17 has had at least 5 years of service as a Congressional
18 employee or Member, or any combination thereof, so much of
19 the annuity as is computed with respect to either such type
20 of service (or a combination thereof), not exceeding a total
21 of 20 years, shall be computed by multiplying 1 7/10 percent
22 of the individual's average pay by the years of such service.

23 "(d) The annuity of an employee retiring under
24 subsection (d) or (e) of section 8412 of this title or under
25 subsection (a) or (b) of section 8425 of this title is--

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1 “(1) 1 7/10 percent of that individual's average pay
2 multiplied by so much of such individual's total service
3 as does not exceed 20 years; plus

4 “(2) 1 percent of that individual's average pay
5 multiplied by so much of such individual's total service
6 as exceeds 20 years.

7 “(e)(1) In computing an annuity under this subchapter
8 for an employee whose service includes service performed on a
9 part-time basis--

10 “(A) the average pay of the employee, to the extent
11 that it includes pay for service performed in any
12 position on a part-time basis, shall be determined by
13 using the annual rate of basic pay that would be payable
14 for full-time service in the position; and

15 ~~“(B) the benefit so computed shall then be~~
16 multiplied by a fraction equal to the ratio which the
17 employee's actual service, as determined by prorating the
18 employee's total service to reflect the service that was
19 performed on a part-time basis, bears to the total
20 service that would be creditable for the employee if all
21 of the service had been performed on a full-time basis.

22 “(2) For the purpose of this subsection, employment on a
23 part-time basis shall not be considered to include employment
24 on a temporary or intermittent basis.

25 “(f)(1) The annuity of an employee or Member retiring

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1 under section 8412(g) or 8413(b) is computed in accordance
2 with applicable provisions of this section, except that the
3 annuity shall be reduced by five-twelfths of 1 percent for
4 each full month by which the commencement date of the annuity
5 precedes the 62nd anniversary of the birth of the employee or
6 Member.

7 “(2)(A) Paragraph (1) does not apply in the case of an
8 employee or Member retiring under section 8413(b) if the
9 employee or Member would satisfy the age and service
10 requirements for title to an annuity under section 8412(a),
11 (b), (d)(2), (e)(2), or (f)(2), determined as if the employee
12 or Member had, as of the date of separation, attained the age
13 specified in subparagraph (B).

14 “(B) A determination under subparagraph (A) shall be
15 based on how old the employee or Member will be as of the
16 date on which the annuity under section 8413(b) is to
17 commence.

18 “§8416. Survivor reduction for a current spouse

19 “(a)(1) If an employee or Member is married at the time
20 of retiring under this chapter, the reduction described in
21 section 8419(a) of this title shall be made unless the
22 employee or Member and the spouse jointly waive, by written
23 election, any right which the spouse may have to a survivor
24 annuity under section 8442 of this title based on the service
25 of such employee or Member. A waiver under this paragraph

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1 shall be filed with the Office under procedures prescribed by
2 the Office.

3 `` (2) Notwithstanding paragraph (1), an employee or
4 Member who is married at the time of retiring under this
5 chapter may waive the annuity for a surviving spouse without
6 the spouse's consent if the employee or Member establishes to
7 the satisfaction of the Office (in accordance with
8 regulations prescribed by the Office)--

9 `` (A) that the spouse's whereabouts cannot be
10 determined; or

11 `` (B) that, due to exceptional circumstances,
12 requiring the employee or Member to seek the spouse's
13 consent would otherwise be inappropriate.

14 `` (3) Except as provided in subsection (d), a waiver made
15 under this subsection shall be irrevocable.

16 `` (b)(1) Upon remarriage, a retired employee or Member
17 who was married at the time of retirement (including an
18 employee or Member whose annuity was not reduced to provide a
19 survivor annuity for the employee's or Member's spouse or
20 former spouse as of the time of retirement) may irrevocably
21 elect during such marriage, in a signed writing received by
22 the Office within 2 years after such remarriage or, if later,
23 within 2 years after the death or remarriage of any former
24 spouse of such employee or Member who was entitled to a
25 survivor annuity under section 8445 of this title (or of the

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1 last such surviving former spouse, if there was more than
2 one), a reduction in the employee's or Member's annuity under
3 section 8419(a) of this title for the purpose of providing an
4 annuity for such employee's or Member's spouse in the event
5 such spouse survives the employee or Member.

6 `` (2) The election and reduction shall be effective the
7 first day of the second month after the election is received
8 by the Office, but not less than 9 months after the date of
9 the remarriage.

10 `` (3) An election to provide a survivor annuity to an
11 individual under this subsection--

12 `` (A) shall prospectively void any election made by
13 the employee or Member under section 8420 of this title
14 with respect to such individual; or

15 `` (B) shall, if an election was made by the employee
16 or Member under such section 8420 with respect to a
17 different individual, prospectively void such election if
18 appropriate written application is made by such employee
19 or Member at the time of making the election under this
20 subsection.

21 `` (4) Any election under this subsection made by an
22 employee or Member on behalf of an individual after the
23 retirement of such employee or Member shall not be effective
24 if--

25 `` (A) the employee or Member was married to such

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1 individual at the time of retirement; and

2 `` (B) annuity rights of such individual based on the
3 service of such employee or Member were then waived under
4 subsection (a).

5 `` (c)(1) An employee or Member who is unmarried at the
6 time of retiring under this chapter and who later marries may
7 irrevocably elect, in a signed writing received by the Office
8 within 2 years after such employee or Member marries or, if
9 later, within 2 years after the death or remarriage of any
10 former spouse of such employee or Member who was entitled to
11 a survivor annuity under section 8445 of this title (or of
12 the last such surviving former spouse, if there was more than
13 one), a reduction in the current annuity of the retired
14 employee or Member, in accordance with section 8419(a) of
15 this title.

16 `` (2) The election and reduction shall take effect the
17 first day of the first month beginning 9 months after the
18 date of marriage. Any such election to provide a survivor
19 annuity for an individual--

20 `` (A) shall prospectively void any election made by
21 the employee or Member under section 8420 of this title
22 with respect to such individual; or

23 `` (B) shall, if an election was made by the employee
24 or Member under such section 8420 with respect to a
25 different individual, prospectively void such election if

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1 appropriate written application is made by such employee
2 or Member at the time of making the election under this
3 subsection.

4 `` (d)(1) An employee or Member--

5 `` (A) who is married on the date of retiring under
6 this chapter, and

7 `` (B) with respect to whose spouse a waiver under
8 subsection (a) has been made,

9 may, during the 18-month period beginning on such date, elect
10 to have a reduction made under section 8419 of this title in
11 order to provide a survivor annuity under section 8442 of
12 this title for such spouse.

13 `` (2)(A) An election under this subsection shall not be
14 effective unless the amount described in subparagraph (B) is
15 deposited into the Fund before the expiration of the 18-month
16 period referred to in paragraph (1).

17 `` (B) The amount to be deposited under this subparagraph
18 is equal to the sum of--

19 `` (i) the difference (for the period between the date
20 on which the annuity of the former employee or Member
21 commences and the date on which reductions pursuant to
22 the election under this subsection commence) between the
23 amount paid to the former employee or Member from the
24 Fund under this chapter and the amount which would have
25 been paid if such election had been made at the time of

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1 retirement; and

2 (ii) the costs associated with providing for the
3 election under this subsection.

4 The amount to be deposited under clause (i) shall include
5 interest, computed at the rate of 6 percent a year.

6 (3) An annuity which is reduced pursuant to an election
7 by a former employee or Member under this subsection shall be
8 reduced by the same percentage as was in effect under section
9 8419 of this title as of the date of the employee's or
10 Member's retirement.

11 (4) Rights and obligations under this chapter resulting
12 from an election under this subsection shall be the same as
13 the rights and obligations which would have resulted had the
14 election been made at the time of retirement.

15 (5) The Office shall inform each employee and Member
16 who is eligible to make an election under this subsection of
17 the right to make such election and the procedures and
18 deadlines applicable in making any such election.

19 §8417. Survivor reduction for a former spouse

20 (a) If an employee or Member has a former spouse who is
21 entitled to a survivor annuity as provided in section 8445 of
22 this title, the reduction described in section 8419(a) of
23 this title shall be made.

24 (b)(1) An employee or Member who has a former spouse
25 may elect, under procedures prescribed by the Office, a

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1 reduction in the annuity of the employee or Member under
2 section 8419(a) of this title in order to provide a survivor
3 annuity for such former spouse under section 8445 of this
4 title.

5 “(2) An election under this subsection shall be made at
6 the time of retirement or, if the marriage is dissolved after
7 the date of retirement, within 2 years after the date on
8 which the marriage of the former spouse to the employee or
9 Member is so dissolved.

10 “(3) An election under this subsection--

11 “(A) shall not be effective to the extent that it--

12 “(i) conflicts with--

13 “(I) any court order or decree referred to
14 in section 8445(a) of this title which was issued
15 before the date of such election; or

16 “(II) any agreement referred to in such
17 section 8445(a) which was entered into before
18 such date; or

19 “(ii) would cause the total of survivor
20 annuities payable under sections 8442 and 8445 of
21 this title, respectively, based on the service of the
22 employee or Member to exceed the amount which would
23 be payable to a widow or widower of such employee or
24 Member under such section 8442 (determined without
25 regard to any reduction to provide for an annuity

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1 under such section 8445); and

2 `` (B) shall not be effective, in the case of an
3 employee or Member who is then married, unless it is made
4 with the spouse's written consent.

5 The Office shall by regulation provide that subparagraph (B)
6 may be waived for either of the reasons set forth in section
7 8416(a)(2) of this title.

8 `` §8418. Survivor elections; deposit; offsets

9 `` (a)(1) An individual who makes an election under
10 subsection (b) or (c) of section 8416 or section 8417(b)
11 which is required to be made within 2 years after the date of
12 a prescribed event shall deposit into the Fund, before the
13 expiration of the 2-year period involved, an amount
14 determined by the Office (as nearly as may be
15 administratively feasible) to reflect the amount by which the
16 annuity of such individual would have been reduced if the
17 election had been in effect since the date of retirement (or,
18 if later, and in the case of an election under such section
19 8416(b), since the date the previous reduction in the annuity
20 of such individual was terminated under paragraph (1) or (2)
21 of section 8419(b)), plus interest.

22 `` (2) Interest under paragraph (1) shall be computed at
23 the rate of 6 percent a year.

24 `` (b) If the electing individual does not make the
25 deposit required under subsection (a), the Office shall

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1 collect such amount by offset against such individual's
2 annuity, up to a maximum of 25 percent of the net annuity
3 otherwise payable, and the individual is deemed to consent to
4 such offset.

5 `` (c) Subsections (a) and (b) shall not apply if--

6 `` (1) the employee or Member makes an election under
7 section 8416(b) or (c) after having made an election
8 under section 8420; and

9 `` (2) the election under such section 8420 becomes
10 void under subsection (b)(3) or (c)(2) of such section
11 8416.

12 `` (d) The Office shall prescribe regulations under which
13 the survivor of an employee or Member may make a deposit
14 under this section.

15 `` §8419. Survivor reductions; computation

16 `` (a)(1) Except as provided in paragraph (2), the annuity
17 of an annuitant computed under section 8415, or under section
18 8452 (including subsection (a)(2) of such section, if
19 applicable), shall be reduced by 10 percent if a survivor
20 annuity, or a combination of survivor annuities, under
21 section 8442 or 8445 (or both) are to be provided for.

22 `` (2)(A) If no survivor annuity under section 8442 is to
23 be provided for, but one or more survivor annuities under
24 section 8445 involving a total of less than the entirety of
25 the amount referred to in subsection (b)(2) of such section

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1 are to be provided for, the annuity of the annuitant involved
2 (as computed under section 8415, or under section 8452
3 (including subsection (a)(2) of such section, if
4 applicable)), shall be reduced by an appropriate percentage
5 determined under subparagraph (B).

6 `` (B) The Office shall prescribe regulations under which
7 an appropriate reduction under this paragraph, not to exceed
8 a total of 10 percent, shall be made.

9 `` (b)(1) Any reduction in an annuity for the purpose of
10 providing a survivor annuity for the current spouse of a
11 retired employee or Member shall be terminated for each full
12 month--

13 `` (A) after the death of the spouse; or

14 `` (B) after the dissolution of the spouse's marriage,
15 to the employee or Member, ~~except that an appropriate~~
16 reduction shall be made thereafter if the spouse is
17 entitled, as a former spouse, to a survivor annuity under
18 section 8445 of this title.

19 `` (2) Any reduction in an annuity for the purpose of
20 providing a survivor annuity for a former spouse of a retired
21 employee or Member shall be terminated for each full month
22 after the former spouse remarries before reaching age 55 or
23 dies. This reduction shall be replaced by appropriate
24 reductions under subsection (a) if the retired employee or
25 Member has one or more of the following:

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1 ``(A) another former spouse who is entitled to a
2 survivor annuity under section 8445;

3 ``(B) a current spouse to whom the employee or Member
4 was married at the time of retirement and with respect to
5 whom a survivor annuity was not waived under section
6 8416(a) (or, if waived, with respect to whom an election
7 under section 8416(d) has been made); or

8 ``(C) a current spouse whom the employee or Member
9 married after retirement and with respect to whom an
10 election has been made under subsection (b) or (c) of
11 section 8416.

12 ``§8420. Insurable interest reductions

13 ``(a)(1) At the time of retiring under section 8412,
14 8413, or 8414, an ~~employee or Member~~ who is found to be in
15 ~~good health by the Office may elect~~ to have such employee's
16 or Member's annuity (as computed under section 8415) reduced
17 under paragraph (2) in order to provide an annuity under
18 section 8444 for an individual having an insurable interest
19 in the employee or Member. Such individual shall be
20 designated by the employee or Member in writing.

21 ``(2) The annuity of the employee or Member making the
22 election is reduced by 10 percent, and by 5 percent for each
23 full 5 years the individual named is younger than the
24 retiring employee or Member, except that the total reduction
25 may not exceed 40 percent.

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1 “(3) An annuity which is reduced under this subsection
2 shall, effective the first day of the month following the
3 death of the individual named under this subsection, be
4 recomputed and paid as if the annuity had not been so
5 reduced.

6 “(b)(1) In the case of a married employee or Member, an
7 election under this section on behalf of the spouse may be
8 made only if any right of such spouse to a survivor annuity
9 based on the service of such employee or Member is waived in
10 accordance with section 8416(a).

11 “(2) Paragraph (1) does not apply in the case of an
12 employee or Member if such employee or Member has a former
13 spouse who would become entitled to an annuity under section
14 8445 as a survivor of such employee or Member.

15 §8420a. Alternative forms of annuities

16 “(a) The Office shall prescribe regulations under which
17 an employee or Member may, at the time of retiring under this
18 subchapter, elect annuity benefits under this section instead
19 of any other benefits under this subchapter, and any benefits
20 under subchapter IV of this chapter, based on the service of
21 the employee or Member.

22 “(b) Subject to subsection (c), the Office shall by
23 regulation provide for such alternative forms of annuities as
24 the Office considers appropriate, except that among the
25 alternatives offered shall be--

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1 ``(1) an alternative which provides for--

2 ``(A) payment of the lump-sum credit (excluding
3 interest) to the employee or Member; and

4 ``(B) payment of an annuity to the employee or
5 Member for life; and

6 ``(2) in the case of an employee or Member who is
7 married at the time of retirement, an alternative which
8 provides for--

9 ``(A) payment of the lump-sum credit (excluding
10 interest) to the employee or Member; and

11 ``(B) payment of an annuity to the employee or
12 Member for life, with a survivor annuity payable for
13 the life of a surviving spouse.

14 ``(c) Each alternative provided for under subsection (b),
15 shall, to the extent practicable, be designed such that the
16 present value of the benefits provided under such alternative
17 (including any lump-sum credit) is actuarially equivalent to
18 the sum of--

19 ``(1) the present value of the annuity which would
20 otherwise be provided under this subchapter, as computed
21 under section 8415 of this title; and

22 ``(2) the present value of the supplementary annuity
23 payment which would otherwise be provided (if any) under
24 section 8421 of this title.

25 ``(d) An employee or Member who, at the time of retiring

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1 under this subchapter--

2 “(1) is married, shall be ineligible to make an
3 election under this section unless a waiver is made under
4 section 8416(a) of this title; or

5 “(2) has a former spouse, shall be ineligible to
6 make an election under this section if the former spouse
7 is entitled to benefits under section 8445 or 8467 of
8 this title (based on the service of the employee or
9 Member) under the terms of a decree of divorce or
10 annulment, or a court order or court-approved property
11 settlement incident to any such decree, with respect to
12 which the Office has been duly notified.

13 “(e) An employee or Member who is married at the time of
14 retiring under this subchapter and who makes an election
15 under this section may, during the 18-month period beginning
16 on the date of retirement, make the election provided for
17 under section 8416(d) of this title, subject to the deposit
18 requirement thereunder.

19 “§8421. Supplementary annuity payment

20 “(a)(1) Subject to paragraph (3), an individual shall,
21 if and while entitled to an annuity under subsection (a),
22 (b), (d), or (e) of section 8412, or under section 8414(c),
23 also be entitled to a supplementary annuity payment under
24 this section.

25 “(2) Subject to paragraph (3), an individual shall, if

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1 and while entitled to an annuity under section 8412(f), or ^{Mewin}
2 under subsection (a) or (b) of section 8414, also be entitled
3 to a supplementary annuity payment under this section if such
4 individual is at least the applicable minimum retirement age
5 under section 8412(h).

6 `` (3)(A) An individual whose entitlement to an annuity
7 under section 8412 or 8414 does not commence before age 62 is
8 not entitled to a supplementary annuity payment under this
9 section.

10 `` (B) An individual entitled to a supplementary annuity
11 payment under this section ceases to be so entitled after the
12 last day of the month preceding the first month for which
13 such individual would, on proper application, be entitled to
14 old-age insurance benefits under title II of the Social
15 Security Act, but not later than the last day of the month in
16 which such individual attains age 62.

17 `` (b)(1) The amount of the supplementary annuity payment
18 of an annuitant under this section for any month shall be
19 equal to the product of--

20 `` (A) an amount determined under paragraph (2),
21 multiplied by

22 `` (B) a fraction, as described in paragraph (3).

23 `` (2) The amount under this paragraph for an annuitant is
24 an amount equal to the old-age insurance benefit which would
25 be payable to such annuitant under title II of the Social

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1 Security Act (without regard to sections 203, 215(a)(7), and
2 215(d)(5) of such Act) upon attaining age 62 and filing
3 application therefor, determined as if the annuitant had
4 attained such age and filed application therefor, and were a
5 fully insured individual (as defined in section 214(a) of
6 such Act), on January 1 of the year in which such annuitant's
7 entitlement to any payment under this section commences,
8 except that the reduction of such old-age insurance benefit
9 under section 202(q) of such Act shall be the maximum
10 applicable for an individual born in the same year as the
11 annuitant. In computing the primary insurance amount under
12 section 215 of such Act for purposes of this paragraph, the
13 number of elapsed years (referred to in section
14 215(b)(2)(B)(iii) of such Act ~~and used to compute the number,~~
15 ~~of benefit computation years) shall not include years~~
16 beginning with the year in which such annuitant's entitlement
17 to any payment under this section commences, and--

18 (A) only basic pay for service performed (if any)
19 shall be taken into account in computing the total wages
20 and self-employment income of the annuitant for a benefit
21 computation year;

22 (B) for a benefit computation year which commences
23 after the date of the separation with respect to which
24 entitlement to the annuitant's annuity under this
25 subchapter is based and before the date as of which such

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annuitant is treated, under the preceding sentence, to have attained age 62, the total wages and self-employment income of such annuitant for such year shall be deemed to be zero; and

((C) for a benefit computation year after age 21 which precedes the separation referred to in subparagraph (B), and during which the individual did not perform a full year of service, the total wages and self-employment income of such annuitant for such year shall be deemed to have been an amount equal to the product of--

((i) the average total wages of all workers for that year, multiplied by

((ii) a fraction--

~~((I) the numerator of which is the total basic pay of the individual for service performed in the first year thereafter in which such individual performed a full year of service; and~~

((II) the denominator of which is the average total wages of all workers for the year referred to in subclause (I).

((3) The fraction under this paragraph for any annuitant is a fraction--

((A) the numerator of which is the annuitant's total years of service (rounding a fraction to the nearest whole number, with 1/2 being rounded to the next higher

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1 number), not to exceed the number under subparagraph (B);
2 and

3 `` (B) the denominator of which is the number of the
4 annuitant's benefit computation years used to compute the
5 old-age insurance benefit referred to in subsection
6 (b)(2).

7 `` (4) For the purpose of this subsection--

8 `` (A) the term 'benefit computation year' has the
9 meaning provided in section 215(b)(2)(B)(i) of the Social
10 Security Act;

11 `` (B) the term 'average total wages of all workers',
12 for a year, means the average of the total wages, as
13 defined and computed under section 215(b)(3)(A)(ii)(I) of
14 ~~the Social Security Act~~ for such year; and

15 `` (C) the term 'service' does not include military
16 service.

17 `` (c) An amount under this section shall be treated under
18 this chapter in the same way as an amount computed under
19 section 8415, except that an amount under this section shall
20 not be adjusted under section 8462.

21 `` §8422. Deductions from pay; contributions for military
22 service

23 `` (a)(1) The employing agency shall deduct and withhold
24 from basic pay of each employee and Member a percentage of
25 basic pay determined in accordance with paragraph (2).

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1 “(2) The applicable percentage under this subsection for
2 any pay period shall be--

3 “(A) in the case of an employee (other than a law
4 enforcement officer, firefighter, or air traffic
5 controller) a percentage equal to--

6 “(i) 7 percent, minus

7 “(ii) the percentage then in effect under
8 section 3101(a) of the Internal Revenue Code of 1954
9 (relating to rate of tax for old-age, survivors, and
10 disability insurance); and

11 “(B) in the case of a Member, law enforcement
12 officer, firefighter, air traffic controller, or
13 Congressional employee, a percentage equal to--

14 “(i) 7 1/2 percent, minus

15 “(ii) the same percentage as would apply in the
16 case of an employee under subparagraph (A)(ii).

17 “(b) Each employee or Member is deemed to consent and
18 agree to the deductions under subsection (a). Notwithstanding
19 any law or regulation affecting the pay of an employee or
20 Member, payment less such deductions is a full and complete
21 discharge and acquittance of all claims and demands for
22 regular services during the period covered by the payment,
23 except the right to any benefits under this subchapter, or
24 under subchapter IV or V of this chapter, based on the
25 service of the employee or Member.

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1 “(c) The amounts deducted and withheld under this
2 section shall be deposited in the Treasury of the United
3 States to the credit of the Fund under such procedures as the
4 Comptroller General of the United States may prescribe.

5 “(d) Under such regulations as the Office may prescribe,
6 amounts deducted under subsection (a) shall be entered on
7 individual retirement records.

8 “(e)(1) Each employee or Member who has performed
9 military service before the date of the separation on which
10 the entitlement to any annuity under this subchapter, or
11 subchapter V of this chapter, is based may pay, in accordance
12 with such regulations as the Office shall issue, to the
13 agency by which the employee is employed, or, in the case of
14 a Member or a Congressional employee, to the Secretary of the
15 Senate or the Clerk of the House of Representatives, as
16 appropriate, an amount equal to 3 percent of the amount of
17 the basic pay paid under section 204 of title 37 to the
18 employee or Member for each period of military service after
19 December 1956. The amount of such payments shall be based on
20 such evidence of basic pay for military service as the
21 employee or Member may provide, or if the Office determines
22 sufficient evidence has not been so provided to adequately
23 determine basic pay for military service, such payment shall
24 be based on estimates of such basic pay provided to the
25 Office under paragraph (4).

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1 ``(2) Any deposit made under paragraph (1) more than two
2 years after the later of--

3 ``(A) January 1, 1987; or

4 ``(B) the date on which the employee or Member making
5 the deposit first becomes an employee or Member,
6 shall include interest on such amount computed and compounded
7 annually beginning on the date of the expiration of the two-
8 year period. The interest rate that is applicable in
9 computing interest in any year under this paragraph shall be
10 equal to the interest rate that is applicable for such year
11 under section 8334(e).

12 ``(3) Any payment received by an agency, the Secretary of
13 the Senate, or the Clerk of the House of Representatives
14 under this subsection shall be immediately remitted to the
15 Office for deposit in the Treasury of the United States to
16 the credit of the Fund.

17 ``(4) The Secretary of Defense, the Secretary of
18 Transportation, the Secretary of Commerce, or the Secretary
19 of Health and Human Services, as appropriate, shall furnish
20 such information to the Office as the Office may determine to
21 be necessary for the administration of this subsection.

22 ``§8423. Government contributions

23 ``(a)(1) Each employing agency having any employees or
24 Members subject to section 8422(a) shall contribute to the
25 Fund an amount equal to the sum of--

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1 ``(A) the product of--

2 ``(i) the normal-cost percentage, as determined
3 for employees (other than employees covered by
4 subparagraph (B)), multiplied by

5 ``(ii) the aggregate amount of basic pay payable
6 by the agency, for the period involved, to employees
7 (under clause (i)) who are within such agency; and

8 ``(B) the product of--

9 ``(i) the normal-cost percentage, as determined
10 for Members, Congressional employees, law enforcement
11 officers, firefighters, air traffic controllers, and
12 military reserve technicians, multiplied by

13 ``(ii) the aggregate amount of basic pay payable
14 by the agency, for the period involved, to employees,
15 and Members (under clause (i)) who are within such
16 agency.

17 ``(2) In determining any normal-cost percentage to be
18 applied under this subsection, amounts provided for under
19 section 8422 shall be taken into account.

20 ``(3) Contributions under this subsection shall be paid--

21 ``(A) in the case of law enforcement officers,
22 firefighters, air traffic controllers, military reserve
23 technicians, and other employees, from the appropriation
24 or fund used to pay such law enforcement officers,
25 firefighters, air traffic controllers, military reserve

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1 technicians, or other employees, respectively;

2 ``(B) in the case of elected officials, from an
3 appropriation or fund available for payment of other
4 salaries of the same office or establishment; and

5 ``(C) in the case of employees of the legislative
6 branch paid by the Clerk of the House of Representatives,
7 from the contingent fund of the House.

8 ``(4) A contribution to the Fund under this subsection
9 shall be deposited under such procedures as the Comptroller
10 General of the United States may prescribe.

11 ``(b)(1) The Office shall compute--

12 ``(A) the amount of the supplemental liability of the
13 Fund with respect to individuals other than those to whom
14 subparagraph (B) relates, and

15 ``(B) the amount of the supplemental liability of the
16 Fund with respect to current or former employees of the
17 United States Postal Service (and the Postal Rate
18 Commission) and their survivors;

19 as of the close of each fiscal year beginning after September
20 30, 1987.

21 ``(2) The amount of any supplemental liability computed
22 under paragraph (1)(A) or (1)(B) shall be amortized in 30
23 equal annual installments, with interest computed at the rate
24 used in the most recent valuation of the System.

25 ``(3) At the end of each fiscal year, the Office shall

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1 notify--

2 “(A) the Secretary of the Treasury of the amount of
3 the installment computed under this subsection for such
4 year with respect to individuals under paragraph (1)(A);
5 and

6 “(B) the Postmaster General of the United States of
7 the amount of the installment computed under this
8 subsection for such year with respect to individuals
9 under paragraph (1)(B).

10 “(4)(A) Before closing the accounts for a fiscal year,
11 the Secretary of the Treasury shall credit to the Fund, as a
12 Government contribution, out of any money in the Treasury of
13 the United States not otherwise appropriated, the amount
14 under paragraph (3)(A) for such year.

15 “(B) Upon receiving notification under paragraph (3)(B),
16 the United States Postal Service shall pay the amount
17 specified in such notification to the Fund.

18 “(5) For the purpose of carrying out paragraph (1) with
19 respect to any fiscal year, the Office may--

20 “(A) require the Board of Actuaries of the Civil
21 Service Retirement System to make actuarial
22 determinations and valuations, make recommendations, and
23 maintain records in the same manner as provided in
24 section 8347(f); and

25 “(B) use the latest actuarial determinations and

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1 valuations made by such Board of Actuaries.

2 `` (c) Under regulations prescribed by the Office, the
3 head of an agency may request reconsideration of any amount
4 determined to be payable with respect to such agency under
5 subsection (a) or (b). Any such request shall be referred to
6 the Board of Actuaries of the Civil Service Retirement
7 System. The Board of Actuaries shall review the computations
8 of the Office and may make any adjustment with respect to any
9 such amount which the Board determines appropriate. A
10 determination by the Board of Actuaries under this subsection
11 shall be final.

12 `` §8424. Lump-sum benefits; designation of beneficiary; order
13 of precedence

14 `` (a) Subject to subsection (b), an employee or Member
15 who--

16 `` (1)(A) is separated from the service for at least
17 31 consecutive days; or

18 `` (B) is transferred to a position in which the
19 individual is not subject to this chapter and remains in
20 such a position for at least 31 consecutive days;

21 `` (2) files an application with the Office for
22 payment of the lump-sum credit;

23 `` (3) is not reemployed in a position in which the
24 individual is subject to this chapter at the time of
25 filing the application; and

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1 “(4) will not become eligible to receive an annuity
2 within 31 days after filing the application;
3 is entitled to be paid the lump-sum credit. Except as
4 provided in section 8420a, payment of the lump-sum credit to
5 an employee or Member voids all annuity rights under this
6 subchapter, and subchapters IV and V of this chapter, based
7 on the service on which the lump-sum credit is based.

8 “(b)(1) Payment of the lump-sum credit under subsection
9 (a)--

10 “(A) may be made only if any current spouse and any
11 former spouse of the employee or Member are notified of
12 the application by the employee or Member; and

13 “(B) in any case in which there is a former spouse,
14 shall be subject to the terms of a court decree of
15 divorce, annulment, or legal separation issued with
16 respect to such former spouse if--

17 “(i) the decree expressly relates to any portion
18 of the lump-sum credit involved; and

19 “(ii) payment of the lump-sum credit would
20 affect any right or interest of the former spouse
21 with respect to a survivor annuity under section 8445
22 of this title, or to any portion of an annuity under
23 section 8467 of this title.

24 “(2)(A) Notification of a spouse or former spouse under
25 this subsection shall be made in accordance with such

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1 requirements as the Office shall by regulation prescribe.

2 “(B) Under the regulations, the Office may provide that
3 paragraph (1)(A) may be waived with respect to a spouse or
4 former spouse if the employee or Member establishes to the
5 satisfaction of the Office that the whereabouts of such
6 spouse or former spouse cannot be determined.

7 “(3) The Office shall prescribe regulations under which
8 this subsection shall be applied in any case in which the
9 Office receives two or more orders or decrees referred to in
10 paragraph (1)(B)(i).

11 “(c) Under regulations prescribed by the Office, an
12 employee or Member, or a former employee or Member, may
13 designate one or more beneficiaries under this section.

14 “(d) Lump-sum benefits authorized by subsections (e)
15 through (g) shall be paid to the individual or individuals
16 surviving the employee or Member and alive at the date title
17 to the payment arises in the following order of precedence,
18 and the payment bars recovery by any other individual:

19 “First, to the beneficiary or beneficiaries
20 designated by the employee or Member in a signed and
21 witnessed writing received in the Office before the death
22 of such employee or Member. For this purpose, a
23 designation, change, or cancellation of beneficiary in a
24 will or other document not so executed and filed has no
25 force or effect.

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1 ``Second, if there is no designated beneficiary, to
2 the widow or widower of the employee or Member.

3 ``Third, if none of the above, to the child or
4 children of the employee or Member and descendants of
5 deceased children by representation.

6 ``Fourth, if none of the above, to the parents of the
7 employee or Member or the survivor of them.

8 ``Fifth, if none of the above, to the duly appointed
9 executor or administrator of the estate of the employee
10 or Member.

11 ``Sixth, if none of the above, to such other next of
12 kin of the employee or Member as the Office determines to
13 be entitled under the laws of the domicile of the
14 employee or Member at the date of death of the employee
15 or Member.

16 For the purpose of this subsection, 'child' includes a
17 natural child and an adopted child, but does not include a
18 stepchild.

19 ``(e) If an employee or Member, or former employee or
20 Member, dies--

21 ``(1) without a survivor, or

22 ``(2) with a survivor or survivors and the right of
23 all survivors under subchapter IV terminates before a
24 claim for survivor annuity under such subchapter is
25 filed,

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1 the lump-sum credit shall be paid.

2 “(f) If all annuity rights under this chapter (other
3 than under subchapter III of this chapter) based on the
4 service of a deceased employee or Member terminate before the
5 total annuity paid equals the lump-sum credit, the difference
6 shall be paid.

7 “(g) If an annuitant dies, annuity accrued and unpaid
8 shall be paid.

9 “(h) Annuity accrued and unpaid on the termination,
10 except by death, of the annuity of an annuitant or survivor
11 shall be paid to that individual. Annuity accrued and unpaid
12 on the death of a survivor shall be paid in the following
13 order of precedence, and the payment bars recovery by any
14 other person:

15 “First, to the duly appointed executor or
16 administrator of the estate of the survivor.

17 “Second, if there is no executor or administrator,
18 payment may be made, after 30 days from the date of death
19 of the survivor, to such next of kin of the survivor as
20 the Office determines to be entitled under the laws of
21 the domicile of the survivor at the date of death.

22 “§8425. Mandatory separation

23 “(a) An air traffic controller who is otherwise eligible
24 for immediate retirement under section 8412(e) shall be
25 separated from the service on the last day of the month in

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1 which that air traffic controller becomes 56 years of age or
2 completes 20 years of service if then over that age. The
3 Secretary, under such regulations as the Secretary may
4 prescribe, may exempt a controller having exceptional skills
5 and experience as a controller from the automatic separation
6 provisions of this subsection until that controller becomes
7 61 years of age. The Secretary shall notify the controller in
8 writing of the date of separation at least 60 days before
9 that date. Action to separate the controller is not
10 effective, without the consent of the controller, until the
11 last day of the month in which the 60-day notice expires.

12 (b) A law enforcement officer or firefighter who is
13 otherwise eligible for immediate retirement under section
14 8412(d) shall be separated from the service on the last day
15 of the month in which that law enforcement officer or
16 firefighter becomes 55 years of age or completes 20 years of
17 service if then over that age. If the head of the agency
18 judges that the public interest so requires, that agency head
19 may exempt such an employee from automatic separation under
20 this subsection until that employee becomes 60 years of age.
21 The employing office shall notify the employee in writing of
22 the date of separation at least 60 days before that date.
23 Action to separate the employee is not effective, without the
24 consent of the employee, until the last day of the month in
25 which the 60-day notice expires.

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1 ``(c) The President, by Executive order, may exempt an
2 employee from automatic separation under this section if the
3 President determines the public interest so requires.

4 [``SUBCHAPTER III--TO BE PROVIDED.]

5 ``SUBCHAPTER IV--SURVIVOR ANNUITIES

6 ``§8441. Definitions

7 ``For the purpose of this subchapter--

8 ``(1) the term 'widow' means the surviving wife of an
9 employee, Member, or annuitant, or of a former employee
10 or Member, who--

11 ``(A) was married to him for at least 9 months
12 immediately before his death; or

13 ``(B) is the mother of issue by that marriage;

14 ``(2) the term 'widower' means the surviving husband
15 of an employee, Member, or annuitant, or of a former
16 employee or Member, who--

17 ``(A) was married to her for at least 9 months
18 immediately before her death; or

19 ``(B) is the father of issue by that marriage;

20 ``(3) the term 'dependent', in the case of any child,
21 means that the employee, Member, or annuitant involved
22 was, at the time of death of the employee, Member, or
23 annuitant either living with or contributing to the
24 support of such child, as determined in accordance with
25 such regulations as the Office shall prescribe; and

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1 “(4) the term ‘child’ means--

2 “(A) an unmarried dependent child under 18 years
3 of age, including (i) an adopted child, (ii) a
4 stepchild but only if the stepchild lived with the
5 employee, Member, or annuitant in a regular
6 parent-child relationship, (iii) a recognized natural
7 child, and (iv) a child who lived with and for whom a
8 petition of adoption was filed by an employee,
9 Member, or annuitant and who is adopted by the widow
10 or widower of the employee, Member, or annuitant
11 after the death of such employee, Member, or
12 annuitant;

13 “(B) such unmarried dependent child regardless
14 of age who is incapable of self-support because of
15 mental or physical disability incurred before age 18;
16 or

17 “(C) such unmarried dependent child between 18
18 and 22 years of age who is a student regularly
19 pursuing a full-time course of study or training in
20 residence in a high school, trade school, technical
21 or vocational institute, junior college, college,
22 university, or comparable recognized educational
23 institution.

24 For the purpose of this paragraph and section 8443, a
25 child whose 22nd birthday occurs before July 1 or after

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1 August 31 of a calendar year, and while regularly
2 pursuing such a course of study or training, is deemed to
3 have become 22 years of age on the first day of July
4 after that birthday. A child who is a student is deemed
5 not to have ceased to be a student during an interim
6 between school years if the interim is not more than 5
7 months and if such child shows to the satisfaction of the
8 Office that such child has a bona fide intention of
9 continuing to pursue a course of study or training in the
10 same or different school during the school semester (or
11 other period into which the school year is divided)
12 immediately after the interim.

13 ``§8442. Rights of a widow or widower

14 `` (a)(1) Except as provided in subsection (g), if an
15 annuitant dies and is survived by a widow or widower, the
16 widow or widower is entitled to an annuity equal to 50
17 percent of an annuity computed under section 8415 with
18 respect to the annuitant, unless--

19 `` (A) the right to an annuity was waived under
20 section 8416(a) (and no election was subsequently made
21 under section 8416(d) nullifying the waiver); or

22 `` (B) in the case of a marriage after retirement, the
23 annuitant did not file an election under section 8416 (b)
24 or (c), as the case may be.

25 `` (2) A spouse acquired after retirement is entitled to

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1 an annuity under this subsection (as provided in paragraph
2 (1)) only upon electing this annuity instead of any other
3 survivor benefit to which such spouse may be entitled under
4 this subchapter or section 8424 or under another retirement
5 system for Government employees.

6 “(b)(1) If an employee or Member dies after completing
7 at least 18 months of civilian service creditable under
8 section 8411 and is survived by a widow or widower, the widow
9 or widower is entitled to--

10 “(A) an amount equal to the sum of--

11 “(i) 50 percent of the final annual rate of
12 basic pay (or of the average pay, if higher) of the
13 employee or Member; and

14 “(ii) \$15,000 (subject to adjustment under
15 ~~section 8462(e)); and~~

16 “(B) if the employee or Member completed at least 10
17 years of service, an annuity equal to 50 percent of an
18 annuity computed under section 8415 with respect to the
19 employee or Member.

20 “(2) The Office shall prescribe regulations under which
21 the total amount payable to a widow or widower under
22 paragraph (1)(A) may, at the election of the widow or
23 widower, be paid--

24 “(A) in a lump sum; or

25 “(B) on a monthly basis--

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1 ``(i) over a period of 3 years beginning on the
2 day after the employee's or Member's death; or
3 ``(ii) over any other period established under
4 the regulations.

5 Any method of payment provided for under subparagraph (B)
6 shall be designed such that the present value of the benefits
7 provided under such method is actuarially equivalent to the
8 present value of a lump-sum payment under subparagraph (A).

9 ``(3) An amount payable under paragraph (1)(A) shall not
10 be considered to be part of an annuity for purposes of this
11 chapter.

12 ``(c)(1) If a former employee or Member dies after having
13 separated from the service with title to a deferred annuity
14 under section 8413 but before having established a valid
15 claim for an annuity, and is survived by a widow or widower
16 to whom married on the date of separation, the widow or
17 widower may elect to receive--

18 ``(A) an annuity under paragraph (2); or

19 ``(B) the lump-sum credit, if the widow or widower is
20 the individual who would be entitled to the lump-sum
21 credit and if such widow or widower files application
22 therefor with the Office.

23 ``(2)(A)(i) Subject to clause (ii) and subparagraph
24 (B)(ii), the annuity of the widow or widower is equal to 50
25 percent of an annuity computed under section 8415 for the

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1 former employee or Member.

2 “(ii)(I) In computing an amount under section 8415 for a
3 former employee or Member (described in subclause (II)) in
4 order to compute the annuity for a widow or widower under
5 this subsection, the computation under section 8415 shall be
6 made as if the former employee or Member had attained the
7 applicable minimum retirement age under section 8412(h).

8 “(II) This clause applies with respect to a former
9 employee or Member who dies before having attained the
10 applicable minimum retirement age under section 8412(h).

11 “(B)(i) Notwithstanding the first sentence of subsection
12 (d)(1), the annuity of the widow or widower of a former
13 employee or Member under subparagraph (A)(ii) commences--

14 “(I) on the day after the date on which the former
15 employee or Member would have attained age 62; or

16 “(II) if the widow or widower so designates in the
17 election, as of the day after the death of the former
18 employee or Member.

19 “(ii) The present value of the annuity of a widow or
20 widower who chooses the earlier commencement date under
21 clause (i)(II) shall be actuarially equivalent to the present
22 value of an annuity computed for the widow or widower,
23 determined as if the commencement date under clause (i)(I)
24 were applicable.

25 “(3)(A) Paragraphs (1) and (2) shall apply only in the

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1 case of an employee or Member who completes at least 10 years
2 of service.

3 `` (B) Nothing in this subsection shall be considered to
4 affect the provisions of this chapter relating to a lump-sum
5 credit in the case of the widow or widower of a former
6 employee or Member who dies after completing less than 10
7 years of service.

8 `` (d)(1) The annuity of a widow or widower under this
9 section commences on the day after the death of the
10 individual on whose service such annuity is based. This
11 annuity and the right thereto terminate on the last day of
12 the month before the widow or widower--

13 `` (A) dies; or

14 `` (B) remarries before becoming 55 years of age.

15 `` (2) In the case of a widow or widower whose annuity
16 under this section is terminated because of remarriage before
17 becoming 55 years of age, the annuity shall be restored at
18 the same rate commencing on the day the remarriage is
19 dissolved by death, divorce, or annulment, if--

20 `` (A) the widow or widower elects to receive this
21 annuity instead of any other survivor benefit to which
22 such widow or widower may be entitled (under this
23 subchapter or section 8424 or under another retirement
24 system for Government employees) by reason of the
25 remarriage; and

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1 ``(B) any lump sum paid on termination of the annuity
2 is returned to the Fund.

3 ``(e) The requirement in paragraphs (1)(A) and (2)(A) of
4 section 8441 that the widow or widower of an annuitant,
5 employee, or Member, or of a former employee or Member, have
6 been married to such individual for at least 9 months
7 immediately before the death of the individual in order to
8 qualify as the widow or widower of such individual shall be
9 deemed satisfied in any case in which the individual dies
10 within the applicable 9-month period, if--

11 ``(1) the death of the individual was accidental; or

12 ``(2) the surviving spouse of the individual had been
13 previously married to such individual and subsequently
14 divorced, and the aggregate ~~time married~~ is at least 9
15 months.

16 ``(f)(1) Subject to paragraph (4), a survivor who is
17 entitled to an annuity under subsection (a) shall also be
18 entitled to a supplementary annuity payment under this
19 subsection.

20 ``(2) A supplementary annuity payment under this
21 subsection shall be equal to the lesser of--

22 ``(A) the amount by which the survivor's assumed CSRS
23 annuity exceeds the annuity payable to such survivor
24 under subsection (a); or

25 ``(B) the amount determined under paragraph (3).

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1 “(3)(A) Except as provided in subparagraph (B), the
2 amount under this paragraph for a survivor is the amount of
3 widow's or widower's insurance benefits which would be
4 payable to such survivor under title II of the Social
5 Security Act (without regard to sections 202(e)(7),
6 202(f)(2), and 203 of such Act) based on the wages and
7 self-employment income of the deceased annuitant, and
8 determined--

9 “(i) as of the date on which the annuitant died; and
10 “(ii) as if the survivor had attained age 60 and
11 made application for those benefits under subsection (e)
12 or (f) of section 202 of such Act, as the case may be.

13 “(B) Any computation or determination under this
14 paragraph shall ~~be made in accordance with the applicable~~
15 ~~provisions of the Social Security Act~~, except that in
16 computing any primary insurance amount under section 215 of
17 such Act for purposes of determining an amount under this
18 subsection, subparagraphs (A) and (C) of section 8421(b)(2)
19 of this title shall apply.

20 “(4) A supplementary annuity payment under this
21 subsection--

22 “(A) shall be payable to a survivor only for
23 calendar months ending before the calendar month in which
24 such survivor first satisfies the minimum age requirement
25 under section 202(e)(1)(B)(i) or 202(f)(1)(B)(i) of the

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1 Social Security Act, as the case may be;

2 `` (B) shall not be payable to a survivor who would

3 not be entitled to benefits under subsection (e) or (f)

4 of section 202 of the Social Security Act based on the

5 wages and self-employment income of the deceased

6 annuitant (determined, as of the date of the annuitant's

7 death, as if the survivor had attained age 60 and made

8 appropriate application for benefits, but without regard

9 to any restriction under either such subsection relating

10 to remarriage); and

11 `` (C) shall not be payable to a survivor for any

12 calendar month in which such survivor is entitled (or

13 would, on proper application, be entitled) to benefits

14 under section 202(g) of the Social Security Act (relating

15 to mother's and father's insurance benefits), or under

16 section 202(e) or (f) of such Act by reason of having

17 become disabled, based on the wages and self-employment

18 income of the deceased annuitant.

19 `` (5) For the purpose of this subsection, the term

20 'assumed CSRS annuity', as used in the case of a survivor,

21 means the amount of the annuity to which such survivor would

22 be entitled under subchapter III of chapter 83 of this title

23 based on the service of the deceased annuitant, determined--

24 `` (A) as of the day after the date of the annuitant's

25 death;

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1 ``(B) as if the survivor had made appropriate
2 application therefor; and

3 ``(C) as if the service of the deceased annuitant
4 were creditable under such subchapter.

5 ``(6) An amount payable under this subsection shall be
6 adjusted under section 8462 and shall otherwise be treated
7 under this chapter in the same way as an amount payable under
8 subsection (a).

9 ``(g)(1) If the widow or widower of an annuitant under
10 section 8452 (hereinafter in this subsection referred to as a
11 ``disability annuitant``) is determined under subsection (a)
12 to be entitled to an annuity based on the service of such
13 disability annuitant, the annuity of the widow or widower
14 shall be equal to 50 percent of the amount determined under
15 paragraph (2), rather than of the amount referred to in
16 subsection (a).

17 ``(2)(A) Except as provided in subparagraph (B), the
18 amount on which the annuity of the widow or widower of a
19 disability annuitant is based shall be the amount of the
20 annuity to which such disability annuitant was entitled, as
21 computed under section 8452 (including appropriate reduction
22 under subsection (a)(2) of such section and any adjustments
23 under section 8462 allowed under section 8452)), as of the
24 day before the date of the disability annuitant's death.

25 ``(B)(i) In the case of a widow or widower entitled to an

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1 annuity based on the service of a disability annuitant who
2 dies before age 62, the amount under clause (ii) shall apply
3 instead of the amount which would otherwise apply under
4 subparagraph (A).

5 “(ii)(I) Subject to subclause (II), the amount of the
6 annuity to which the disability annuitant was entitled as of
7 the day before the date of death shall be considered to be
8 the amount which would be computed with respect to such
9 disability annuitant under section 8452(b) if the disability
10 annuitant had attained age 62 on the day before date of
11 death.

12 “(II) For purposes of any such computation under section
13 8452(b)(2) pursuant to this clause, creditable service shall
14 (in addition to the service which would otherwise be used
15 under subparagraph (B)(i) of such section) include the period
16 of time between date of death and the date of the sixty-
17 second anniversary of the birth of the annuitant, and average
18 pay shall be adjusted in accordance with subparagraph (B)(ii)
19 of such section only through date of death.

20 “(h) The following rules shall apply notwithstanding any
21 other provision of this section:

22 “(1) The annuity payable under this section to a
23 widow or widower may not exceed the difference between--

24 “(A) the amount of the annuity which would
25 otherwise be payable to such widow or widower under

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1 this section; and

2 ``(B) the amount of the annuity payable to any
3 former spouse of the deceased employee, Member, or
4 annuitant, or former employee or Member, based on an
5 election made under section 8417(b) or a court order
6 previously issued or agreement previously entered
7 into as described in section 8445(a) of this title.

8 ``(2) The amount payable under subsection (b)(1)(A)
9 to a widow or widower may not exceed the difference
10 between--

11 ``(A) the amount which would otherwise be payable
12 to such widow or widower under such subsection; and

13 ``(B) the portion of such amount payable to any
14 former spouse of the deceased employee, Member, or
15 annuitant, or former employee or Member, based on a
16 court order previously issued or agreement previously
17 entered into.

18 ``(3) A lump-sum credit under subsection (c)(2) shall
19 be subject to the same terms and conditions as apply with
20 respect to a lump-sum credit under section 8424(b).

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1 ``§8443. Rights of a child

2 `` (a)(1) If an employee or Member dies after completing
3 at least 18 months of civilian service which is creditable
4 under section 8411, or an annuitant dies, each surviving
5 child is, for any month, entitled to an annuity equal to--

6 `` (A) the amount by which the applicable amount under
7 paragraph (2) for such month exceeds the applicable
8 amount under paragraph (3) for such month, divided by

9 `` (B) the number of children entitled to a payment
10 under this section for such month.

11 `` (2) The applicable amount under this paragraph for any
12 month is the total amount to which the surviving child or
13 children (as the case may be) of the annuitant, employee, or
14 Member would be entitled for such month under subchapter III
15 of chapter 83 based on the service of such annuitant,
16 employee, or Member, if the service of such annuitant,
17 employee, or Member were creditable under such subchapter.

18 `` (3) The applicable amount under this paragraph for any
19 month is the total amount of child's insurance benefits which
20 are payable (or would, on proper application, be payable)
21 under title II of the Social Security Act for such month
22 based on the wages and self-employment income of such
23 annuitant, employee, or Member.

24 `` (b) The annuity of a child under this subchapter--

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1 “(1) commences on the day after the annuitant,
2 employee, or Member dies;

3 “(2) commences or resumes on the first day of the
4 month in which the child later becomes or again becomes a
5 student as described by section 8441(4), if any lump sum
6 paid is returned to the Fund; or

7 “(3) commences or resumes on the first day of the
8 month in which the child later becomes or again becomes
9 incapable of self-support because of a mental or physical
10 disability incurred before age 18 (or a later recurrence
11 of such disability), if any lump sum paid is returned to
12 the Fund.

13 This annuity and the right thereto terminate on the last day
14 of the month before the child--

15 “(A) becomes 18 years of age unless then a student
16 as described or incapable of self-support;

17 “(B) becomes capable of self-support after becoming
18 18 years of age unless then such a student;

19 “(C) becomes 22 years of age if then such a student
20 and capable of self-support;

21 “(D) ceases to be such a student after becoming 18
22 years of age unless then incapable of self-support; or

23 “(E) dies or marries;

24 whichever occurs first. On the death of the surviving wife or
25 husband, or former wife or husband, or termination of the

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1 annuity of a child, the annuity of any other child or
2 children shall be recomputed and paid as though the wife or
3 husband, former wife or husband, or child had not survived
4 the annuitant, employee, or Member.

5 ``§8444. Rights of a named individual with an insurable
6 interest

7 ``The annuity of a survivor named under section 8420(a)
8 of this title is 55 percent of the reduced annuity of the
9 retired employee or Member determined under paragraph (2) of
10 such section 8420(a). The annuity of the survivor commences
11 on the day after the retired employee or Member dies. This
12 annuity and the right thereto terminate on the last day of
13 the month before the survivor dies.

14 ``§8445. Rights of a former spouse

15 `` (a) Subject to subsections (b) through (e), a former
16 spouse of a deceased employee, Member, or annuitant (or of a
17 former employee or Member who dies after having separated
18 from the service with title to a deferred annuity under
19 section 8413 but before having established a valid claim for
20 annuity) is entitled to an annuity under this section, if and
21 to the extent expressly provided for in an election under
22 section 8417(b), or in the terms of any decree of divorce or
23 annulment or any court order or court-approved property
24 settlement agreement incident to such decree.

25 `` (b)(1) The annuity payable to a former spouse under

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1 this section may not exceed the difference between--

2 ``(A) the amount applicable in the case of such
3 former spouse, as determined under paragraph (2); and

4 ``(B) the amount of any annuity payable under this
5 section to any other former spouse of the employee,
6 Member, or annuitant, or former employee or Member, based
7 on an election previously made under section 8417(b), or
8 a court order previously issued or agreement previously
9 entered into as described in subsection (a).

10 ``(2) The applicable amount, for purposes of paragraph
11 (1)(A) in the case of a former spouse, is the amount of the
12 annuity which would be payable under the provisions of
13 section 8442 (including subsection (f) of such section, but
14 without regard to subsection (g) of such section) if such
15 former spouse were a widow or widower entitled to an annuity
16 under such provisions based on the service of the deceased
17 employee, Member, or annuitant, or former employee or Member.

18 ``(c) The commencement and termination of an annuity
19 payable under this section shall be governed by the terms of
20 the applicable order, decree, agreement, or election, as the
21 case may be, except that any such annuity--

22 ``(1) shall not commence before--

23 ``(A) the day after the employee, Member, or
24 annuitant, or former employee or Member, dies; or

25 ``(B) the first day of the second month beginning

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1 after the date on which the Office receives written
2 notice of the order, decree, agreement, or election,
3 as the case may be, together with such additional
4 information or documentation as the Office may
5 prescribe;

6 whichever is later; and

7 `` (2) shall terminate no later than the last day of
8 the month before the former spouse remarries before
9 becoming 55 years of age or dies.

10 `` (d) For purposes of this chapter, a modification in a
11 decree, order, agreement, or election referred to in
12 subsection (a) shall not be effective--

13 `` (1) if such modification is made after the
14 retirement or death of the employee, Member, or
15 annuitant, or former employee or Member, concerned; and

16 `` (2) to the extent that such modification involves
17 an annuity under this section.

18 `` (e) For purposes of this chapter, a decree, order,
19 agreement, or election referred to in subsection (a) shall
20 not be effective, in the case of a former spouse, to the
21 extent that it is inconsistent with any joint waiver
22 previously executed with respect to such former spouse under
23 section 8416(a).

24 `` (f) (1) Any amount under section 8442(b)(1)(A) which
25 would otherwise be payable to a widow or widower based on the

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1 service of another individual shall be paid (in whole or in
2 part) by the Office to a former spouse of such individual if
3 and to the extent expressly provided for in the terms of a
4 court decree of divorce, annulment, or legal separation, or
5 the terms of a court order or court-approved property
6 settlement incident to any decree of divorce, annulment, or
7 legal separation.

8 “(2) Paragraph (1) shall apply only to payments made by
9 the Office after the date of receipt in the Office of written
10 notice of such decree, order, or agreement, and such
11 additional information and documentation as the Office may
12 prescribe.

13 “(g) Any payment under this section to a person bars
14 recovery by any other person.

15 SUBCHAPTER V--DISABILITY BENEFITS

16 “§8451. Disability retirement

17 “(a)(1)(A) An employee who completes at least 18 months
18 of civilian service creditable under section 8411 of this
19 title and has become disabled shall be retired on the
20 employee's own application or on application by the
21 employee's agency.

22 “(B) For purposes of this subsection, an employee shall
23 be considered disabled only if the employee is found by the
24 Office to be unable, because of disease or injury, to render
25 useful and efficient service in the employee's position.

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1 “(2)(A) Notwithstanding paragraph (1), an employee shall
2 not be eligible for disability retirement under this section
3 if the employee has declined a reasonable offer of
4 reassignment to a vacant position in the employee's agency
5 for which the employee is qualified if the position--

6 “(i) is at the same grade (or pay level) as the
7 employee's most recent grade (or pay level) or higher;

8 “(ii) is within the employee's commuting area; and

9 “(iii) is one in which the employee would be able to
10 render useful and efficient service.

11 “(B) An employee who is applying for disability
12 retirement under this subchapter shall be considered for
13 reassignment by the employee's agency to a vacant position
14 described in subparagraph (A) in accordance with such
15 procedures as the Office shall by regulation prescribe.

16 “(C) An employee is entitled to appeal to the Merit
17 Systems Protection Board under section 7701 of this title any
18 determination that the employee is not unable, because of
19 disease or injury, to render useful and efficient service in
20 a position to which the employee has declined reassignment
21 under this section.

22 “(D) For purposes of subparagraph (A), an employee of
23 the United States Postal Service shall not be considered
24 qualified for a position if such position is in a different
25 craft or if reassignment to such position would be

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1 inconsistent with the terms of a collective-bargaining
2 agreement covering the employee.

3 (b) A Member who completes at least 18 months of
4 service as a Member and is found by the Office to be disabled
5 for useful and efficient service as a Member because of
6 disease or injury shall be retired on the Member's own
7 application.

8 (c) An employee or Member retiring under this section
9 is entitled to an annuity computed under section 8452 of this
10 title.

11 §8452. Computation of disability annuity

12 (a)(1)(A) Except as provided in paragraph (2), or
13 subsection (b), (c), or (d), the annuity of an annuitant
14 under this subchapter--

15 (i) for the period beginning on the date on which
16 such annuity commences, or is restored (as described in
17 section 8455(b)(2) or (3)), and ending at the end of the
18 twelfth month beginning on or after such date, shall be
19 equal to 60 percent of the annuitant's average pay; and

20 (ii) after the end of the period referred to in
21 clause (i), shall be equal to 40 percent of the
22 annuitant's average pay.

23 (B) An annuity computed under this paragraph shall not,
24 for purposes of any adjustment under section 8462 (including
25 any adjustment under subsection (c)(1) of such section), be

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1 considered to have commenced until after such annuity ceases
2 to be determined under subparagraph (A)(i).

3 “(2)(A) For any month in which an annuitant is entitled
4 both to an annuity under this subchapter as computed under
5 paragraph (1) and to a disability insurance benefit under
6 section 223 of the Social Security Act, the annuitant’s
7 annuity for such month (as so computed) shall--

8 “(i) if such month occurs during a period referred
9 to in paragraph (1)(A)(i), be reduced by 100 percent of
10 the annuitant’s assumed disability insurance benefit for
11 such month; or

12 “(ii) if such month occurs other than during a
13 period referred to in paragraph (1)(A)(i), be reduced by
14 60 percent of the annuitant’s assumed disability
15 insurance benefit for such month;

16 except that an annuity may not be reduced below zero by
17 reason of this paragraph.

18 “(B)(i) For purposes of this paragraph, the assumed
19 disability insurance benefit of an annuitant for any month
20 shall be equal to--

21 “(I) the amount of the disability insurance benefit
22 to which the annuitant would have been entitled under
23 section 223 of the Social Security Act for the month in
24 which the annuity under this subchapter commenced, or was
25 restored, determined as if such annuitant had then

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1 satisfied all requirements for entitlement to a benefit
2 under such section, adjusted by

3 `` (II) all adjustments made under section 8462(b)
4 between the date on which the annuity commenced, or was
5 restored, and the start of the month involved (without
6 regard to whether the annuitant's annuity was affected by
7 any of those adjustments).

8 For purposes of computing the assumed disability insurance
9 benefit, the month in which the annuitant's disability began
10 (as determined under section 216(i)(2)(C) of the Social
11 Security Act) shall be the month in which the annuity
12 commenced or, if earlier (and if a determination was actually
13 made) the month determined under such section.

14 `` (ii) For purposes of applying section 224 of the Social
15 Security Act to the assumed disability insurance benefit used
16 to compute the reduction under this paragraph, the amount of
17 the annuity under this subchapter which is considered shall
18 be the amount of the annuity as determined before the
19 application of this paragraph.

20 `` (b)(1) Except as provided in subsection (d), if an
21 annuitant is entitled to an annuity under this subchapter as
22 of the day before the date of the sixty-second anniversary of
23 the annuitant's birth (hereinafter in this section referred
24 to as the annuitant's 'anniversary date'), such annuity shall
25 be redetermined under paragraph (3) or (4), as applicable.

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1 Effective as of the annuitant's anniversary date, the annuity
2 (as so redetermined) shall be in lieu of any annuity to which
3 such annuitant would otherwise be entitled under this
4 subchapter.

5 `` (2)(A) In order to carry out paragraphs (3) and (4),
6 the Office shall compute an annuity for the annuitant under
7 section 8415.

8 `` (B) In performing a computation under this paragraph--

9 `` (i) creditable service of the annuitant shall be
10 increased by including the period (or periods), if any,
11 before the annuitant's anniversary date during which the
12 annuitant was entitled to an annuity under this
13 subchapter; and

14 `` (ii) the average pay which would otherwise be used
15 shall be adjusted to reflect all adjustments made under
16 section 8462(b) with respect to any period (or periods)
17 referred to in clause (i) (without regard to whether the
18 annuitant's annuity was affected by any of those
19 adjustments).

20 `` (3) If, as of the day before the annuitant's
21 anniversary date, the annuitant's annuity is subject to
22 reduction under subsection (a)(2), the annuitant's
23 redetermined annuity shall be the lesser of--

24 `` (A) the amount determined with respect to such
25 annuitant under paragraph (2); or

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1 “(B) subject to the following sentence, the amount
2 (converted so as to be expressed as an annual amount)
3 which would otherwise be payable under this subchapter
4 for the month in which occurs the day before the
5 annuitant's anniversary date, as computed under
6 subsection (a) (based on the assumption that the
7 annuitant was entitled to an annuity under this
8 subchapter, and to a disability insurance benefit under
9 section 223 of the Social Security Act, for the entirety
10 of such month).

11 If the annuitant's anniversary date occurs during the period
12 described in subsection (a)(1)(A), the amount used under
13 subparagraph (B) may not exceed the amount (converted so as
14 to be expressed as an annual amount) which would otherwise be
15 payable under this subchapter for the first month after such
16 period, as computed under subsection (a) based on the
17 assumption that the annuitant was entitled to an annuity
18 under this subchapter, and to a disability insurance benefit
19 under section 223 of the Social Security Act, for the
20 entirety of such month.

21 “(4) If, as of the day before the annuitant's
22 anniversary date, the annuitant's annuity is not subject to
23 reduction under subsection (a)(2), the annuitant's
24 redetermined annuity shall be the lesser of--

25 “(A) the amount determined with respect to such

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1 annuitant under paragraph (2); or

2 `` (B) the amount which would be used for such
3 annuitant under subparagraph (B) of paragraph (3) (as
4 determined subject to the second sentence of such
5 paragraph), if such paragraph applied to such annuitant.

6 `` (c) Except as provided in subsection (d), the annuity
7 of an annuitant under this subchapter shall be computed under
8 section 8415 of this title if--

9 `` (1) such annuity commences, or is restored,
10 beginning on or after the anniversary date of the
11 annuitant; or

12 `` (2) as of the day on which such annuity commences,
13 or is restored, the annuitant satisfies the age and
14 service requirements for entitlement to an annuity under
15 section 8412 of this title (other than subsection (g) of
16 such section).

17 `` (d) The annuity to which an annuitant is entitled under
18 this section shall not be less than the amount of an annuity
19 computed under section 8415 of this title (excluding
20 subsection (f) of such section).

21 `` §8453. Application

22 `` A claim may be allowed under this subchapter only if
23 application is filed with the Office before the employee or
24 Member is separated from the service or within 1 year
25 thereafter. This time limitation may be waived by the Office

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1 for an employee or Member who, at the date of separation from
2 service or within 1 year thereafter, is mentally incompetent
3 if the application is filed with the Office within 1 year
4 from the date of restoration of the employee or Member to
5 competency or the appointment of a fiduciary, whichever is
6 earlier.

7 ``§8454. Medical examination

8 ``An annuitant receiving a disability retirement annuity
9 from the Fund shall be examined under the direction of the
10 Office--

11 `` (1) at the end of 1 year from the date of the
12 disability retirement; and

13 `` (2) annually thereafter until becoming 60 years of
14 age;

15 unless the disability is permanent-in-character. If the
16 annuitant fails to submit to examination as required by this
17 section, payment of the annuity shall be suspended until
18 continuance of the disability is satisfactorily established.

19 ``§8455. Recovery; restoration of earning capacity

20 `` (a)(1) If an annuitant receiving a disability
21 retirement annuity from the Fund recovers from the disability
22 before becoming 60 years of age, payment of the annuity
23 terminates on reemployment by the Government or 1 year after
24 the date on which the Office determines that the annuitant
25 has recovered, whichever is earlier.

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1 “(2) If an annuitant receiving a disability annuity from
2 the Fund, before becoming 60 years of age, is restored to an
3 earning capacity fairly comparable to the current rate of pay
4 of the position occupied at the time of retirement, payment
5 of the annuity terminates 180 days after the end of the
6 calendar year in which earning capacity is so restored.

7 Earning capacity is deemed restored if in any calendar year
8 the income of the annuitant from wages or self-employment or
9 both equals at least 80 percent of the current rate of pay of
10 the position occupied immediately before retirement.

11 “(b)(1) If an annuitant whose annuity is terminated
12 under subsection (a) is not reemployed in a position in which
13 that individual is subject to this chapter, such individual
14 is deemed, except for service credit, to have been
15 involuntarily separated from the service for the purpose of
16 subchapter II of this chapter as of the date of termination
17 of the disability annuity, and after that termination is
18 entitled to annuity under the applicable provisions of such
19 subchapter.

20 “(2) If an annuitant whose annuity is terminated under
21 subsection (a)(2)--

22 “(A) is not reemployed in a position subject to this
23 chapter; and

24 “(B) has not recovered from the disability for which
25 that individual was retired;

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1 the annuity of such individual shall be restored at the
2 applicable rate under section 8452 of this title effective
3 the first of the year following any calendar year in which
4 such individual's income from wages or self-employment or
5 both is less than 80 percent of the current rate of pay of
6 the position occupied immediately before retirement.

7 “(3) If an annuitant whose annuity is terminated because
8 of a medical finding that the individual has recovered from
9 disability is not reemployed in a position in which such
10 individual is subject to this chapter, the annuity of such
11 individual shall be restored at the applicable rate under
12 section 8452 of this title effective from the date on which
13 the Office determines that there has been a recurrence of the
14 disability.

15 “(4) Paragraphs (2) and (3) shall not apply in the case
16 of an annuitant receiving an annuity from the Fund under
17 subchapter II of this chapter.

18 “§8456. Relationship to workers' compensation

19 “(a)(1) An individual is not entitled to receive an
20 annuity under this subchapter and compensation for injury to
21 or disability of the individual under subchapter I of chapter
22 81 of this title covering the same period of time.

23 “(2) Paragraph (1) does not bar the right of a claimant
24 to the greater benefit conferred by either subchapter
25 referred to in such paragraph for any part of the period

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1 referred to in such paragraph.

2 “(3) Paragraph (1) and the provisions of subchapter I of
3 chapter 81 of this title do not deny an individual an annuity
4 which the individual is entitled to receive under this
5 chapter on account of service performed by the individual and
6 do not deny any concurrent benefit to the individual under
7 subchapter I of chapter 81 of this title on account of the
8 death of another individual.

9 “(b)(1) Subject to paragraph (2), an individual's
10 receipt of a lump-sum payment for compensation under section
11 8135 of this title shall not affect the individual's
12 entitlement to an annuity under this subchapter.

13 “(2) If an annuity is payable under this subchapter by
14 reason of the same disability for which a lump-sum payment of
15 compensation referred to in paragraph (1) has been made, so
16 much of the compensation as has been paid for a period
17 extended beyond the date payment of the annuity commences, as
18 determined by the Department of Labor, shall be refunded to
19 that Department for credit to the Employees' Compensation
20 Fund. Before the individual may receive the disability
21 annuity, the individual shall--

22 “(A) refund to the Department of Labor the amount
23 representing the commuted compensation payments for the
24 extended period; or

25 “(B) authorize the deduction of the amount from the

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1 necessary in order to administer this chapter.

2 “(2) The Director, in consultation with the officials
3 from whom such information is requested, shall establish (by
4 regulation or otherwise) such safeguards as are necessary to
5 ensure that information made available under this subsection
6 is used only for the purpose authorized.

7 “(i) In making a determination of ‘actuarial
8 equivalence’ under this chapter, the economic assumptions
9 used shall be the same as the economic assumptions most
10 recently used by the Office (before the determination of
11 actuarial equivalence involved) in determining the normal-
12 cost percentage of the System.

13 “(j)(1) Notwithstanding any other provision of this
14 chapter, the Director of Central Intelligence shall, in a
15 manner consistent with the administration of this chapter by
16 the Office--

17 “(A) determine entitlement to benefits under this
18 chapter based on the service of employees of the Central
19 Intelligence Agency;

20 “(B) maintain records relating to the service of
21 such employees;

22 “(C) compute benefits under this chapter based on
23 the service of such employees;

24 “(D) collect deposits to the Fund made by such
25 employees, their spouses, and their former spouses; and

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1 annuity.

2 Deductions from the annuity may be made from accrued or
3 accruing payments. The amounts deducted and withheld from the
4 annuity shall be transmitted to the Department of Labor for
5 reimbursement to the Employees' Compensation Fund. When the
6 Department of Labor finds that the financial circumstances of
7 an individual entitled to an annuity under this subchapter
8 warrant deferred refunding under this paragraph, deductions
9 from the annuity may be prorated against and paid from
10 accruing payments in such manner as the Department determines
11 appropriate.

12 ``§8457. Military reserve technicians

13 `` (a)(1) Except as provided in paragraph (2) or (3), an
14 individual shall be retired under this subchapter if the
15 individual--

16 `` (A) is separated from employment as a military
17 reserve technician by reason of a disability that
18 disqualifies the individual from membership in a reserve
19 component of the Armed Forces specified in section 261(a)
20 of title 10 or from holding the military grade required
21 for such employment;

22 `` (B) is not considered to be disabled under section
23 8451(a)(1)(B) of this title;

24 `` (C) is not appointed to a position in the
25 Government (whether under subsection (c) or otherwise);

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1 and

2 `` (D) has not declined an offer of an appointment to
3 a position in the Government under subsection (c).

4 `` (2) Payment of any annuity for an individual pursuant
5 to this section terminates--

6 `` (A) on the date the individual is appointed to a
7 position in the Government (whether pursuant to
8 subsection (c) or otherwise);

9 `` (B) on the date the individual declines an offer of
10 appointment to a position in the Government under
11 subsection (c); or

12 `` (C) as provided under section 8455(a) of this
13 title.

14 `` (3) An individual eligible to retire under section
15 8414(c) of this title shall not be eligible to retire under
16 this section.

17 `` (b) Any individual applying for or receiving any
18 annuity pursuant to this section shall, in accordance with
19 regulations prescribed by the Office, be considered by any
20 agency of the Government before any vacant position in the
21 agency is filled if--

22 `` (1) the position is located within the commuting
23 area of the individual's former position;

24 `` (2) the individual is qualified to serve in such
25 position, as determined by the head of the agency; and

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1 ``(3) the position is at the same grade or equivalent
2 level as the position from which the individual was
3 separated.

4 ``SUBCHAPTER VI--GENERAL AND ADMINISTRATIVE PROVISIONS

5 ``§8461. Authority of the Office of Personnel Management

6 ``(a) The Office shall pay all benefits that are payable
7 under subchapter II, IV, V, or VI of this chapter from the
8 Fund.

9 ``(b) The Office shall administer all provisions of this
10 chapter not specifically required to be administered by the
11 Board, the Executive Director, the Secretary of Labor, or any
12 other officer or agency.

13 ``(c) The Office shall adjudicate all claims under the
14 provisions of this chapter administered by the Office.

15 ``(d) The Office shall determine questions of disability
16 and dependency arising under the provisions of this chapter
17 administered by the Office. Except to the extent provided
18 under subsection (e), the decisions of the Office concerning
19 these matters are final and conclusive and are not subject to
20 review. The Office may direct at any time such medical or
21 other examinations as it considers necessary to determine the
22 facts concerning disability or dependency of an individual
23 receiving or applying for annuity under the provisions of
24 this chapter administered by the Office. The Office may
25 suspend or deny annuity for failure to submit to examination.

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1 “(e)(1) Subject to paragraph (2), an administrative
2 action or order affecting the rights or interests of an
3 individual or of the United States under the provisions of
4 this chapter administered by the Office may be appealed to
5 the Merit Systems Protection Board under procedures
6 prescribed by the Board.

7 “(2) In the case of any individual found by the Office
8 to be disabled in whole or in part on the basis of the
9 individual's mental condition, and that finding was made
10 pursuant to an application by an agency for purposes of
11 disability retirement under section 8451 of this title, the
12 procedures under section 7701 of this title shall apply and
13 the decision of the Board shall be subject to judicial review
14 under section 7703 of this title.

15 “(f) The Office shall fix the fees for examinations made
16 under subchapter V of this chapter by physicians or surgeons
17 who are not medical officers of the United States. The fees
18 and reasonable traveling and other expenses incurred in
19 connection with the examinations are paid from appropriations
20 for the cost of administering the provisions of this chapter
21 administered by the Office.

22 “(g) The Office may prescribe regulations to carry out
23 the provisions of this chapter administered by the Office.

24 “(h)(1) Each Government agency shall furnish the
25 Director with such information as the Director determines

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1 (E) perform such other functions under this chapter
2 as the Director of Central Intelligence, with the
3 concurrence of the Director of the Office of Personnel
4 Management, determines to be appropriate.

5 (2) The Director of the Office of Personnel Management
6 may furnish such information and services to the Director of
7 Central Intelligence as the Director of Central Intelligence
8 requests to carry out paragraph (1).

9 §8462. Cost-of-living adjustments

10 (a) For the purpose of this section--

11 (1) the term 'base quarter', as used with respect
12 to a year, means the calendar quarter ending on September
13 30 of such year;

14 (2) the price index for a base quarter is the
15 arithmetical mean of such index for the 3 months
16 comprising such quarter; and

17 (3) the term 'percent change in the price index',
18 as used with respect to a year, means the percentage
19 derived by--

20 (A) reducing--

21 (i) the price index for the base quarter of
22 such year, by

23 (ii) the price index for the base quarter
24 of the preceding year in which an adjustment
25 under this subsection was made;

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1 ``(B) dividing the difference under subparagraph
2 (A) by the price index referred to in subparagraph
3 (A)(ii); and

4 ``(C) multiplying the quotient under subparagraph
5 (B) by 100.

6 ``(b)(1) Except as provided in subsection (c), effective
7 December 1 of any year in which an adjustment under this
8 subsection is to be made, as determined under paragraph (2),
9 each annuity payable from the Fund under this chapter (other
10 than an annuity under section 8443 of this title) having a
11 commencing date not later than such December 1 shall be
12 adjusted as follows:

13 ``(A) If the percent change in the price index for
14 the year does not exceed 3 percent, each annuity subject
15 to adjustment under this subsection shall be increased by
16 the lesser of--

17 ``(i) the percent change in the price index
18 (rounded to the nearest one-tenth of 1 percent); or
19 ``(ii) 2 percent.

20 ``(B) If the percent change in the price index for
21 the year exceeds 3 percent, each annuity subject to
22 adjustment under this subsection shall be increased by
23 the excess of--

24 ``(i) the percent change in the price index
25 (rounded to the nearest one-tenth of 1 percent), over

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1 ``(ii) 1 percent.

2 ``(2) An adjustment under this subsection shall be made
3 in a year only if the price index for the base quarter of
4 such year exceeds the price index for the base quarter of the
5 preceding year in which an adjustment under this subsection
6 was made.

7 ``(3) An annuity under this chapter shall not be subject
8 to adjustment under section 8340 of this title.

9 ``(c) Eligibility for an annuity increase under this
10 section is governed by the commencing date of each annuity
11 payable from the Fund as of the effective date of an
12 increase, except as follows:

13 ``(1) The first increase (if any) made under
14 subsection (b) to an annuity which is payable from the
15 Fund to an annuitant or survivor (other than a child
16 under section 8443) whose annuity has not been increased
17 under this subsection or subsection (b) shall be equal to
18 the product (adjusted to the nearest one-tenth of 1
19 percent) of--

20 ``(A) one-twelfth of the applicable percent
21 change computed under subsection (b), multiplied by

22 ``(B) the number of months (not to exceed 12
23 months, counting any portion of a month as a month)--

24 ``(i) for which the annuity was payable from
25 the Fund before the effective date of the

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1 increase; or

2 (ii) in the case of a survivor of a
3 deceased annuitant whose annuity has not been so
4 increased, since the annuity was first payable to
5 the deceased annuitant.

6 (2) Effective from its commencing date, an annuity
7 payable from the Fund to an annuitant's survivor (other
8 than a widow or widower whose annuity is computed under
9 section 8442(g) or a child under section 8443) shall be
10 increased by the total percentage by which the deceased
11 annuitant's annuity had been increased under this section
12 during the period beginning on the date the deceased
13 annuitant's annuity commenced and ending on the date of
14 the deceased annuitant's death.

15 (3)(A) An adjustment under subsection (b) for any
16 year shall not be effective with respect to the annuity
17 of an annuitant who is under 62 years of age as of the
18 date on which such adjustment would otherwise first take
19 effect.

20 (B)(i) Except as provided in clause (ii), this
21 paragraph applies with respect to an annuitant under
22 section 8412, 8413, or 8414.

23 (ii) This paragraph does not apply with respect to
24 an annuitant under subsection (d) or (e) of section 8412
25 or (in the case of an annuitant separated from service as

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1 a military reserve technician as a result of disability)
2 under section 8414(c).

3 `` (4) The first increase (if any) made under
4 subsection (b) to an annuity which is payable from the
5 Fund to a widow or widower whose annuity is computed
6 under section 8442(g) shall be equal to the product
7 (adjusted to the nearest one-tenth of 1 percent) of--

8 `` (A) one-twelfth of the applicable percent
9 change computed under subsection (b), multiplied by

10 `` (B) the number of months (not to exceed 12
11 month, counting any portion of a month as a month)
12 since--

13 `` (i) the effective date of the adjustment
14 last made under this section in the annuity of
15 the annuitant on whose service on the widow's or
16 widower's annuity is based; or

17 `` (ii) if the annuity of the annuitant
18 (referred to in clause (i)) has not been
19 increased under this section, the commencement
20 date of such annuitant's annuity.

21 `` (d) The monthly installment of an annuity after
22 adjustment under this section shall be rounded to the next
23 lowest dollar. However, the monthly installment shall, after
24 adjustment, reflect an increase of at least \$1.

25 `` (e) The \$15,000 amount referred to in section

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1 8442(b)(1)(A)(ii) of this title shall be increased at the
2 same time that, and by the same percent as the percentage by
3 which, annuities under subchapter III of chapter 83 of this
4 title are increased.

5 ``§8463. Rate of benefits

6 ``Each annuity payable from the Fund is stated as an
7 annual amount, one-twelfth of which, rounded to the next
8 lower dollar, constitutes the monthly rate payable on the
9 first business day of the first month beginning after the
10 month for which it has accrued.

11 ``§8464. Commencement and termination of annuities of
12 employees and Members

13 `` (a)(1) Except as otherwise provided in this chapter--

14 `` (A) an annuity payable from the Fund commences on
15 the first day of the month after--

16 `` (i) separation from the service, in the case of
17 an employee or Member retiring under section 8412, or
18 subsection (a) or (b)(1)(B) of section 8414, of this
19 title; or

20 `` (ii) pay ceases, and the applicable age and
21 service requirements are met, in the case of an
22 employee or Member retiring under section 8413 of
23 this title;

24 `` (B) an annuity payable from the Fund commences on
25 the day after separation from the service in the case of

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1 an employee retiring under subsection (b)(1)(A) or (c) of
2 section 8414 of this title; and

3 `` (C) an annuity payable from the Fund commences on
4 the day after separation from the service or the day
5 after pay ceases and the requirements for title to an
6 annuity are met in the case of an employee or Member
7 retiring under section 8451 of this title.

8 `` (2) Notwithstanding paragraph (1)(A)(i), an annuity
9 payable from the Fund commences on the day after separation
10 from the service in the case of an employee or Member--

11 `` (A) who retires under section 8412 of this title;
12 and

13 `` (B) whose separation occurs upon the expiration of
14 a term (or other period) for which the individual was
15 appointed or elected.

16 `` (b) Except as otherwise provided in this chapter, the
17 annuity of an annuitant under subchapter II or V of this
18 chapter terminates on the date death or other terminating
19 event occurs.

20 `` §8465. Waiver, allotment, and assignment of benefits

21 `` (a) An individual entitled to an annuity payable from
22 the Fund may decline to accept all or any part of the amount
23 of the annuity by a waiver signed and filed with the Office.
24 The waiver may be revoked in writing at any time. Payment of
25 the annuity waived may not be made for the period during

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1 which the waiver is in effect.

2 “(b) An individual entitled to an annuity payable from
3 the Fund may make allotments or assignments of amounts from
4 the annuity for such purposes as the Office considers
5 appropriate.

6 “§8466. Application for benefits

7 “(a) No payment of benefits based on the service of an
8 employee or Member shall be made from the Fund unless an
9 application for payment of the benefits is received by the
10 Office before the one hundred and fifteenth anniversary of
11 the birth of the employee or Member.

12 “(b) Notwithstanding subsection (a), after the death of
13 an employee, Member, or annuitant, or former employee or
14 Member, a benefit based on the service of such employee,
15 Member, or annuitant, or former employee or Member, shall not
16 be paid under subchapter II or IV of this chapter unless an
17 application therefor is received by the Office within 30
18 years after the death or other event which establishes the
19 entitlement to the benefit.

20 “(c) Payment due a minor, or an individual mentally
21 incompetent or under other legal disability, may be made to
22 the person who is constituted guardian or other fiduciary by
23 the law of the State of residence of the claimant or is
24 otherwise legally vested with the care of the claimant or his
25 estate. If a guardian or other fiduciary of the individual

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1 under legal disability has not been appointed under the law
2 of the State of residence of the claimant, payment may be
3 made to any person who, in the judgment of the Office, is
4 responsible for the care of the claimant, and the payment
5 bars recovery by any other person.

6 ``§8467. Court orders

7 ``(a) Payments under this chapter which would otherwise
8 be made to an employee, Member, or annuitant (including an
9 employee, Member, or annuitant as defined under section 8331
10 of this title) based on the service of that individual shall
11 be paid (in whole or in part) by the Office or the Executive
12 Director (as the case may be), to another person if and to
13 the extent that the terms of any court decree of divorce,
14 annulment, or legal separation, ~~or the terms of any court~~
15 ~~order or court-approved property settlement agreement~~
16 incident to any court decree of divorce, annulment, or legal
17 separation expressly provide. Any payment under this
18 subsection to a person bars recovery by any other person.

19 ``(b) Subsection (a) shall apply only to payments made by
20 the Office or the Executive Director under this chapter after
21 the date on which the Office or the Executive Director (as
22 the case may be) receives written notice of such decree,
23 order, or agreement, and such additional information and
24 documentation as the Office or the Executive Director may
25 require.

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1 ``§8468. Annuities and pay on reemployment

2 ``(a) If an annuitant becomes employed in an appointive
3 or elective position in the Government, payment of any
4 annuity under subchapter II or V of this chapter to the
5 annuitant terminates effective on the date of the employment.
6 The annuitant's service on and after the date the annuitant
7 becomes so employed is covered by this chapter unless such
8 service is performed as a justice or judge of the United
9 States (as defined by section 451 of title 28) or as an
10 employee subject to another retirement system for Government
11 employees. Upon termination of the employment, the rights of
12 the annuitant under subchapter II or V of this chapter (as
13 the case may be) shall be redetermined. If the annuitant dies
14 while still so employed, a survivor annuity payable with
15 ~~respect to the deceased~~ annuitant shall be redetermined as if
16 the employment had otherwise terminated on the date of death.

17 ``(b) The amount of an annuity resulting from a
18 redetermination of rights under this chapter pursuant to
19 subsection (a) shall not be less than the amount of the
20 terminated annuity plus any increases which (but for the
21 reemployment) would have been payable under section 8462 of
22 this title after the termination of the annuity and before
23 the commencement of the redetermined annuity.

24 ``§8469. Withholding of State income taxes

25 ``(a) The Office shall, in accordance with this section,

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1 enter into an agreement with any State within 120 days of a
2 request for agreement from the proper State official. The
3 agreement shall provide that the Office shall withhold State
4 income tax in the case of the monthly annuity of any
5 annuitant who voluntarily requests, in writing, such
6 withholding. The amounts withheld during any calendar quarter
7 shall be held in the Fund and disbursed to the States during
8 the month following that calendar quarter.

9 “(b) An annuitant may have in effect at any time only
10 one request for withholding under this section, and an
11 annuitant may not have more than two such requests in effect
12 during any one calendar year.

13 “(c) Subject to subsection (b), an annuitant may change
14 the State designated by that annuitant for purposes of having
15 withholdings made, and may request that the withholdings be
16 remitted in accordance with such change. An annuitant also
17 may revoke any request of that annuitant for withholding. Any
18 change in the State designated or revocation is effective on
19 the first day of the month after the month in which the
20 request or the revocation is processed by the Office, but in
21 no event later than on the first day of the second month
22 beginning after the day on which such request or revocation
23 is received by the Office.

24 “(d) This section does not give the consent of the
25 United States to the application of a statute which imposes

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1 more burdensome requirements on the United States than on
2 employers generally, or which subjects the United States or
3 any annuitant to a penalty or liability because of this
4 section. The Office may not accept pay from a State for
5 services performed in withholding State income taxes from
6 annuities. Any amount erroneously withheld from an annuity
7 and paid to a State by the Office shall be repaid by the
8 State in accordance with regulations issued by the Office.

9 “(e) For the purpose of this section--

10 “(1) the term ‘State’ means a State, the District of
11 Columbia, or any territory or possession of the United
12 States; and

13 “(2) the term ‘annuitant’ includes a survivor who is
14 receiving an annuity from the Fund.

15 “§8470. Exemption from legal process; recovery of payments

16 “(a) An amount payable under subchapter II, IV, or V of
17 this chapter is not assignable, either in law or equity,
18 except under the provisions of section 8465 or 8467 of this
19 title, or subject to execution, levy, attachment, garnishment
20 or other legal process, except as otherwise may be provided
21 by Federal laws.

22 “(b) Recovery of payments under subchapter II, IV, or V
23 of this chapter may not be made from an individual when, in
24 the judgment of the Office, the individual is without fault
25 and recovery would be against equity and good conscience.

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1 Withholding or recovery of money paid under subchapter II,
 2 IV, or V of this chapter on account of a certification or
 3 payment made by a former employee of the United States in the
 4 discharge of his official duties may be made only if the head
 5 of the agency on behalf of which the certification or payment
 6 was made certifies to the Office that the certification or
 7 payment involved fraud on the part of the former employee.

8 [``SUBCHAPTER VII--TO BE PROVIDED]

9 (b) CONFORMING AMENDMENT.--The table of chapters at the
 10 beginning of part III of title 5, United States Code, is
 11 amended by inserting after the item relating to chapter 83
 12 the following new item:

``84. Federal Employees'
 Retirement System.....8401.``.

13 TITLE II--OTHER AMENDMENTS TO TITLE 5 OF THE UNITED STATES

14 CODE

15 SEC. 201. TREATMENT UNDER CIVIL SERVICE RETIREMENT SYSTEM OF
 16 CERTAIN INDIVIDUALS EXCLUDED FROM FEDERAL
 17 EMPLOYEES' RETIREMENT SYSTEM.

18 (a) DEDUCTIONS, CONTRIBUTIONS, AND DEPOSITS.--(1) Section
 19 8334 of title 5, United States Code, is amended by adding at
 20 the end thereof the following:

21 `` (k)(1) Effective with respect to pay periods beginning
 22 after December 31, 1986, in administering this section in the
 23 case of an individual described in section 8402(b)(2) of this

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1 title--

2 ``(A) the amount to be deducted and withheld by the
3 employing agency shall be determined in accordance with
4 paragraph (2) of this subsection instead of the first
5 sentence of subsection (a)(1) of this section; and

6 ``(B) the amount of the contribution under the second
7 sentence of subsection (a)(1) of this section shall be
8 the amount which would have been contributed under such
9 sentence if this subsection had not been enacted.

10 ``(2)(A) With respect to Federal wages of an employee or
11 Member (or that portion thereof) not exceeding the
12 contribution and benefit base during the calendar year
13 involved, the appropriate amount to be deducted and withheld
14 under this subsection is the amount by which--

15 ``(i) the total deduction for those wages (or for
16 that portion) exceeds;

17 ``(ii) the OASDI contribution with respect to those
18 wages (or that portion).

19 ``(B) With respect to any portion of Federal wages of an
20 employee or Member which exceed the contribution and benefit
21 base during the calendar year involved, the appropriate
22 amount to be deducted and withheld under this subsection is
23 an amount equal to the total deduction for that portion.

24 ``(C) For purposes of this paragraph--

25 ``(i) the term 'Federal wages' means basic pay for

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1 service as an employee or Member, as the case may be;

2 `` (ii) the term 'contribution and benefit base' means
3 the contribution and benefit base in effect with respect
4 to the period involved, as determined under section 230
5 of the Social Security Act;

6 `` (iii) the term 'total deduction', as used with
7 respect to any Federal wages (or portion thereof), means
8 an amount equal to the amount of those wages (or of that
9 portion), multiplied by the percentage which (but for
10 this subsection) would apply under the first sentence of
11 subsection (a)(1) with respect to the individual
12 involved; and

13 `` (iv) the term 'OASDI contribution', with respect to
14 any income, means the amount of ~~tax which~~ may be imposed
15 ~~under section 3101(a) of the Internal Revenue Code of~~
16 1954 with respect to such income (determined without
17 regard to any income which is not a part of Federal
18 wages).

19 `` (3) The amount of a deposit under subsection (c) of
20 this section for any service with respect to which paragraph
21 (1) of this subsection applies shall be equal to an amount
22 determined based on the preceding provisions of this
23 subsection, and shall include interest.``.

24 (2) Such section 8334 is further amended--

25 (A) in paragraphs (1) and (2) of subsection (e), by

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1 striking out ``or (j)`` and inserting in lieu thereof

2 ``(j), or (k)``;

3 (B) in subsection (f), by inserting ``or (k)`` after
4 ``subsection (a)``; and

5 (C) in subsection (h), by striking out ``and (j)``
6 and inserting in lieu thereof ``(j), and (k)``.

7 (b) OFFSET IN BENEFITS.--(1) Subchapter III of chapter 83
8 of title 5, United States Code, is amended by adding at the
9 end thereof the following:

10 ``§8349. Offset relating to certain benefits under the Social
11 Security Act

12 ``(a)(1) Notwithstanding any other provision of this
13 subchapter, if an individual under section 8402(b)(2) is
14 entitled, or would on proper application be entitled, to old-
15 ~~age insurance benefits under title II of the Social Security~~
16 Act, the annuity otherwise payable to such individual shall
17 be reduced under this subsection.

18 ``(2) A reduction under this subsection commences
19 beginning with the first month for which the individual
20 both--

21 ``(A) is entitled to an annuity under this
22 subchapter; and

23 ``(B) is entitled, or would on proper application be
24 entitled, to old-age insurance benefits under title II of
25 the Social Security Act.

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1 “(3)(A)(i) Subject to clause (ii) and subparagraphs (B)
2 and (C), the amount of a reduction under this subsection
3 shall be equal to the difference between--

4 “(I) the old-age insurance benefit which would be
5 payable to the individual for the month referred to in
6 paragraph (2); and

7 “(II) the old-age insurance benefit which would be
8 so payable, excluding all wages derived from Federal
9 service of the individual, and assuming the individual
10 were fully insured (as defined by section 214(a) of the
11 Social Security Act).

12 “(ii) For purposes of this subsection, the amount of a
13 benefit referred to in subclause (I) or (II) of clause (i)
14 shall be determined without regard to subsections (b) through
15 (1) of section 203 of the Social Security Act, and without
16 regard to the requirement that an application for such
17 benefit be filed.

18 “(B) A reduction under this subsection--

19 “(i) may not exceed an amount equal to the product
20 of--

21 “(I) the old-age insurance benefit to which the
22 individual is entitled (or would on proper
23 application be entitled) for the month referred to in
24 paragraph (2), determined without regard to
25 subsections (b) through (1) of section 203 of the

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1 Social Security Act; and

2 “(II) a fraction, as determined under section
3 8421(b)(3) with respect to the individual, except
4 that the reference to ‘service’ in subparagraph (A)
5 of such section shall be considered to mean Federal
6 service, and the reference to ‘benefit computation
7 years used to compute the old-age insurance benefit
8 referred to in subsection (b)(2)’ in subparagraph (B)
9 of such section shall be considered to mean benefit
10 computation years used to compute the old-age
11 insurance benefit referred to in subclause (I); and

12 “(ii) may not cause the annuity payment for an
13 individual to be reduced below zero.

14 “(C) An amount computed under subclause (I) or (II) of
15 subparagraph (A)(i), or under subparagraph (B)(i)(I), for
16 purposes of determining the amount of a reduction under this
17 subsection shall be adjusted under section 8340 of this
18 title.

19 “(4) A reduction under this subsection applies with
20 respect to the annuity otherwise payable to such individual
21 under this subchapter (other than under section 8337) for the
22 month involved--

23 “(A) based on service of such individual; and

24 “(B) without regard to section 8345(j), if otherwise
25 applicable.

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1 “(5) The operation of the preceding paragraphs of this
2 subsection shall not be considered for purposes of applying
3 the provisions of the second sentence of section
4 215(a)(7)(B)(i) or the provisions of section 215(d)(5)(ii) of
5 the Social Security Act in determining any amount under
6 subclause (I) or (II) of paragraph (3)(A)(i) or paragraph
7 (3)(B)(i)(I) for purposes of this subsection.

8 “(b)(1) Notwithstanding any other provision of this
9 subchapter--

10 “(A) a disability annuity to which an individual
11 described in section 8402(b)(2) is entitled under this
12 subchapter, and

13 “(B) a survivor annuity to which a person is
14 entitled under this subchapter based on the service of an
15 individual described in section 8402(b)(2),
16 shall be subject to reduction under this subsection if that
17 individual or person is also entitled (or would on proper
18 application also be entitled) to any similar benefits under
19 title II of the Social Security Act based on the wages and
20 self-employment income of such individual described in
21 section 8402(b)(2).

22 “(2)(A) Subject to subparagraph (B), reductions under
23 this subsection shall be made in a manner consistent with the
24 manner in which reductions under subsection (a) are computed
25 and otherwise made.

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1 “(B) Reductions under this subsection shall be
2 discontinued if, or for so long as, entitlement to the
3 similar benefits under title II of the Social Security Act
4 (as referred to in paragraph (1)) is terminated (or, in the
5 case of an individual who has not made proper application
6 therefor, would be terminated).

7 “(3) For the purpose of applying section 224 of the
8 Social Security Act to the disability insurance benefit used
9 to compute the reduction under this subsection, the amount of
10 the CSRS annuity considered shall be the amount of the CSRS
11 annuity before application of this section.

12 “(4) The Office shall prescribe regulations to carry out
13 this subsection.

14 “(c) For the purpose of this section, the term ‘Federal
15 service’ means service which is employment for the purposes
16 of title II of the Social Security Act and chapter 21 of the
17 Internal Revenue Code of 1954 by reason of the amendments
18 made by section 101 of the Social Security Amendments of
19 1983.”.

20 (2) The analysis for chapter 83 of title 5, United States
21 Code, is amended by adding at the end thereof the following
22 new item:

 “8349. Offset relating to certain benefits under the Social
 Security Act.”.

23 (c) CREDITABILITY OF INTERIM SERVICE.--Section 8334(c) of

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1 title 5, United States Code, is amended by adding at the end
 2 thereof the following: ``Notwithstanding the preceding
 3 provisions of this subsection and any provision of section
 4 206(b)(3) of the Federal Employees' Retirement Contribution
 5 Temporary Adjustment Act of 1983, the percentage of basic pay
 6 required under this subsection in the case of an individual
 7 described in section 8402(b)(2) shall, with respect to any
 8 covered service (as defined by section 203(a)(3) of such Act)
 9 performed by such individual after December 31, 1983, and
 10 before January 1, 1987, be equal to 1.3 percent.'`.

11 SEC. 202. NON-APPLICABILITY OF CIVIL SERVICE RETIREMENT

12 SYSTEM TO INDIVIDUALS UNDER FEDERAL EMPLOYEES'
 13 RETIREMENT SYSTEM.

14 (a) EMPLOYEES.--Section 8331(1) of title 5, United States
 15 Code, is amended--

16 (1) by amending clause (ii) to read as follows:

17 `` (ii) an employee subject to another retirement
 18 system for Government employees (other than an employee
 19 described in clause (x)); ``;

20 (2) by striking ``or`` at the end of clause (viii);

21 (3) by striking the period at the end of clause (ix)
 22 and inserting in lieu thereof ``; or``; and

23 (4) by adding after clause (ix) the following:

24 `` (x) an employee subject to the Federal Employees'
 25 Retirement System.'`.

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1 (b) MEMBERS OF CONGRESS.--Section 8331(2) of title 5,
2 United States Code, is amended by striking the semicolon and
3 inserting in lieu thereof ``', but does not include any such
4 Member of Congress who is subject to the Federal Employees'
5 Retirement System or who makes an election under section
6 8401(20) of this title not to be subject to such System;''.

7 SEC. 203. PAY FOR THE EXECUTIVE DIRECTOR OF THE FEDERAL
8 RETIREMENT THRIFT INVESTMENT BOARD.

9 Section 5314 of title 5, United States Code, is amended
10 by adding at the end thereof the following:

11 ``Executive Director, Federal Retirement Thrift
12 Investment Board.''.
13

13 SEC. 204. ALTERNATIVE FORMS OF ANNUITIES.

14 (a) IN GENERAL.--Title 5, United States Code, is amended
15 by inserting after section 8343 the following:

16 ``§8343a. Alternative forms of annuities

17 `` (a) The Office of Personnel Management shall prescribe
18 regulations under which an employee or Member may, at the
19 time of retiring under this subchapter (other than under
20 section 8337 of this title), elect annuity benefits under
21 this section instead of any other benefits under this
22 subchapter (including any benefits under section 8341 of this
23 title) based on the service of the employee or Member.

24 `` (b) Subject to subsection (c), the Office shall by
25 regulation provide for such alternative forms of annuities as

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1 the Office considers appropriate, except that among the
2 alternatives offered shall be--

3 ``(1) an alternative which provides for--

4 ``(A) payment of the lump-sum credit to the
5 employee or Member; and

6 ``(B) payment of an annuity to the employee or
7 Member for life; and

8 ``(2) in the case of an employee or Member who is
9 married at the time of retirement, an alternative which
10 provides for--

11 ``(A) payment of the lump-sum credit to the
12 employee or Member; and

13 ``(B) payment of an annuity to the employee or
14 Member for life, with a survivor annuity payable for
15 the life of a surviving spouse.

16 ``(c) Each alternative provided for under subsection (b)
17 shall, to the extent practicable, be designed such that the
18 present value of the benefits provided under such alternative
19 (including any lump-sum credit) is actuarially equivalent to
20 the present value of the annuity which would otherwise be
21 provided the employee or Member under this subchapter, as
22 computed under subsections (a)-(i) and (n) of section 8339 of
23 this title.

24 ``(d) An employee or Member who, at the time of retiring
25 under this subchapter--

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1 “(1) is married, shall be ineligible to make an
2 election under this section unless a waiver is made under
3 section 8339(j)(1) of this title; or

4 “(2) has a former spouse, shall be ineligible to
5 make an election under this section if the former spouse
6 is entitled to benefits under section 8341(h) or 8345(j)
7 of this title (based on the service of the employee or
8 Member) under the terms of a decree of divorce or
9 annulment, or a court order or court-approved property
10 settlement incident to any such decree, with respect to
11 which the Office has been duly notified.

12 “(e) An employee or Member who is married at the time of
13 retiring under this subchapter and who makes an election
14 under this section may, during the 18-month period beginning
15 on the date of retirement, make the election provided for _____
16 under section 8339(o) of this title, subject to the deposit
17 requirement thereunder.”.

18 (b) CONFORMING AMENDMENTS.--(1) The analysis for chapter
19 83 of title 5, United States Code, is amended by inserting
20 after the item relating to section 8343 the following:

 “8343a. Alternative forms of annuities.”.

21 (2) The second sentence of section 8342(a) of title 5,
22 United States Code, is amended by striking “The” and
23 inserting in lieu thereof “Except as provided in section
24 8343a of this title, the”.

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1 SEC. 205. RETIREMENT COUNSELING.

2 (a) IN GENERAL.--Subchapter III of chapter 83 of title 5,
3 United States Code, as amended by section 201(b), is further
4 amended by adding at the end thereof the following:

5 ``§8350. Retirement counseling

6 `` (a) For the purposes of this section, the term
7 'retirement counselor', when used with respect to an agency,
8 means an employee of the agency who is designated by the head
9 of the agency to furnish information on benefits under this
10 subchapter and chapter 84 of this title and counseling
11 services relating to such benefits to other employees of the
12 agency.

13 `` (b) The Director of the Office of Personnel Management
14 shall--

15 `` (1) establish a training program for all retirement
16 counselors of agencies of the Federal Government; and

17 `` (2) designate and publicize a telephone number at
18 the Office which annuitants under this subchapter or
19 chapter 84 of this title may call to obtain answers to
20 questions relating to retirement benefits under this
21 subchapter or such chapter and which is to be used
22 exclusively for such purpose.

23 `` (c)(1) The training program established under
24 subsection (b)(1) of this section shall provide for
25 comprehensive training in the provisions and administration

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1 of this subchapter and chapter 84 of this title, shall be
2 designed to promote fully informed retirement decisions by
3 employees and Members under this subchapter and individuals
4 subject to chapter 84 of this title, and shall be revised as
5 necessary to assure that the information furnished to
6 retirement counselors of agencies under the program is
7 current.

8 “(2) The Director shall conduct a training session under
9 the training program at least once every 3 months.

10 “(3) Once each year, each retirement counselor of an
11 agency shall successfully complete a training session
12 conducted under the training program.

13 “(c) The Director shall assign the responsibility of
14 receiving and responding to calls made to the telephone
15 number designated under subsection (b)(2) of this section to
16 a sufficient number of employees who are knowledgeable about
17 the provisions and administration of this subchapter and
18 chapter 84 of this title to assure that prompt and effective
19 assistance is furnished to annuitants.”.

20 (b) CHAPTER ANALYSIS.--The chapter analysis at the
21 beginning of such chapter is amended by inserting after the
22 item relating to section 8349 the following:

“8350. Retirement counseling.”.

23 SEC. 206. MISCELLANEOUS AMENDMENTS.

24 (a) AMENDMENT TO SECTION 2105.--Section 2105(c)(2) of

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1 title 5, United States Code, is amended by striking out
2 ``chapter 81`` and inserting in lieu thereof ``chapter 81,
3 chapter 84,``.

4 (b) AMENDMENT TO SECTION 2109.--Section 2109(1) of title
5 5, United States Code, is amended to read as follows:

6 ``(1) `air traffic controller' or `controller' means
7 a civilian employee of the Department of Transportation
8 or the Department of Defense who, in an air traffic
9 control facility or flight service station facility--

10 ``(A) is actively engaged--

11 ``(i) in the separation and control of air
12 traffic; or

13 ``(ii) in providing preflight, inflight, or
14 airport advisory service to aircraft operators;

15 or

16 ``(B) is the immediate supervisor of any employee
17 described in subparagraph (A); and``.

18 (c) AMENDMENT TO SECTION 6301.--Section 6301(2)(B) of
19 title 5, United States Code, is amended to read as follows:

20 ``(B) an individual first employed by the
21 government of the District of Columbia before October
22 1, 1987;``.

23 (d) AMENDMENT TO SECTION 6303.--The second sentence of
24 section 6303(a) of title 5, United States Code, is amended by
25 striking out ``title.`` and inserting in lieu thereof ``title

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1 and all service creditable under section 8411 of this title
2 for the purpose of chapter 84 of this title.''.
3

4 (e) AMENDMENT TO SECTION 8116.--Section 8116 of title 5,
5 United States Code, is amended by adding at the end thereof
6 the following:

7 ``(d) Notwithstanding the other provisions of this
8 section, an individual receiving benefits for disability or
9 death under this subchapter who is also receiving benefits
10 under subchapter III of chapter 84 of this title or benefits
11 under title II of the Social Security Act shall be entitled
12 to all such benefits, except that--

13 ``(1) benefits received under section 223 of the
14 Social Security Act (on account of disability) shall be
15 subject to reduction on account of benefits paid under
16 this subchapter pursuant to the provisions of section 224
17 of the Social Security Act; and

18 ``(2) in the case of benefits received on account of
19 age or death under title II of the Social Security Act,
20 compensation payable under this subchapter based on the
21 Federal service of an employee shall be reduced by the
22 amount of any such social security benefits payable that
23 are attributable to Federal service of that employee
24 covered by chapter 84 of this title. However, eligibility
25 for or receipt of benefits under chapter 84 of this
title, or benefits under title II of the Social Security

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1 Act by virtue of service covered by chapter 84 of this
2 title, does not affect the right of the employee to
3 compensation for scheduled disabilities specified by
4 section 8107(c) of this title.''.
5

6 (f) AMENDMENTS TO SECTION 8331.--Section 8331(1) of title
7 5, United States Code, as amended by section 202(a), is
8 further amended--

9 (1) by amending subparagraph (G) to read as follows:

10 "(G) an individual first employed by the
11 government of the District of Columbia before October
12 1, 1987;"; and

13 (2) by striking out "or" at the end of clause (ix),
14 by striking out the period at the end of clause (x) and
15 inserting in lieu thereof "; or", and by adding after
16 clause (x) the following:

17 "(xi) an employee under the Botanic Garden
18 excluded by the Director or Acting Director of the
19 Botanic Garden under section 8347(1) of this
20 title.'".

21 (g) AMENDMENTS TO SECTION 8332.--(1) Section 8332(b) of
22 title 5, United States Code, is amended--

23 (A) by striking "and" at the end of paragraph (12),
24 striking the period at the end of the first paragraph
25 (13) and inserting a semicolon, redesignating the second
paragraph (13) as paragraph (14), and striking the period

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1 at the end of such paragraph (14) (as so redesignated)
2 and inserting ``; and``;

3 (B) by inserting after paragraph (14) (as so
4 redesignated by subparagraph (A)) the following:

5 `` (15) subject to section 8334(c) and 8339(i) of this
6 title, service performed on or after January 3, 1969, and
7 before January 4, 1973, as the Washington Representative
8 for Guam or the Washington Representative for the Virgin
9 Islands, only if the individual serves as a Member for a
10 period of at least five years after January 2, 1973.``;

11 (C) in the second sentence after paragraph (15) (as
12 added by subparagraph (B)), by striking `` (13) `` and
13 inserting `` (14) ``; and

14 (D) by adding at the end thereof the following: ``For
15 the purpose of this subchapter, service of the type
16 described in paragraph (15) of this subsection shall be
17 considered Member service.``.

18 (2) The last sentence of section 8332(f) of title 5,
19 United States Code, is amended by striking `` (13) `` and
20 inserting `` (14) ``.

21 (3) The last sentence of section 8332(k)(1) of title 5,
22 United States Code, is amended by striking ``second`` and
23 inserting ``third``.

24 (h) AMENDMENTS TO SECTION 8342.--Section 8342(a) of title
25 5, United States Code, is amended--

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1 (1) in paragraphs (1)(B) and (3), by inserting `` , or
2 chapter 84 of this title,`` after ``subchapter``; and

3 (2) by adding at the end the following: ``In applying
4 this subsection with respect to an employee or Member who
5 becomes subject to chapter 84 of this title, entitlement
6 to payment of the lump-sum credit shall be determined
7 without regard to paragraph (1) or (3) if, and to the
8 extent that, such lump-sum credit relates to service of a
9 type described in clauses (i) through (iii) of section
10 302(a)(1)(C) of the Federal Employees' Retirement System
11 Act of 1986.``.

12 (i) AMENDMENT TO SECTION 8347.--Section 8347 of title 5,
13 United States Code, is amended by adding at the end thereof
14 the following:

15 `` (n)(1) Notwithstanding any other provision of this
16 subchapter, the Director of Central Intelligence shall, in a
17 manner consistent with the administration of this subchapter
18 by the Office--

19 `` (A) determine entitlement to benefits under this
20 subchapter based on the service of employees of the
21 Central Intelligence Agency;

22 `` (B) maintain records relating to the service of
23 such employees;

24 `` (C) compute benefits under this subchapter based on
25 the service of such employees;

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1 “(D) collect deposits to the Fund made by such
2 employees, their spouses, and their former spouses; and

3 “(E) perform such other functions under this
4 subchapter as the Director of Central Intelligence, with
5 the concurrence of the Director of the Office of
6 Personnel Management, determines to be appropriate.

7 “(2) The Director of the Office of Personnel Management
8 may furnish such information and services to the Director of
9 Central Intelligence as the Director of Central Intelligence
10 requests to carry out paragraph (1) of this subsection.”.

11 (j) AMENDMENTS TO SECTION 8348.--Section 8348(a) of title
12 5, United States Code, is amended--

13 (1) in paragraph (1)(A), by striking out
14 “subchapter;” and inserting in lieu thereof
15 “subchapter or by the provisions of chapter 84 of this
16 title which relate to benefits payable out of the
17 Fund;”;

18 (2) in paragraph (1)(B)--

19 (A) by inserting “or 8462” after “8340”; and

20 (B) by striking out “title, and” and inserting
21 in lieu thereof “title or subchapters II and IV of
22 chapter 84 of this title, and”; and

23 (3) in paragraph (2), by striking out “chapter” and
24 inserting in lieu thereof “chapter, chapter 84 of this
25 title,”.

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1 temporary extension of life insurance coverage and for
2 conversion to an individual policy of life insurance
3 under conditions approved by the Office.''; and

4 (5) by striking out subsection (c)(1) of section
5 8714c and inserting in lieu thereof the following:

6 `` (c)(1) Except as otherwise provided in this subsection,
7 the optional life insurance on family members shall stop at
8 the earlier of the employee's death, the employee's separation
9 from the service, or 12 months after discontinuance of pay,
10 subject to a provision for temporary extension of life
11 insurance coverage and for conversion to individual policies
12 of life insurance under conditions approved by the Office.''.
13

(1) AMENDMENTS TO SECTION 8901.--Section 8901 of title 5,

~~14~~ United States Code, is amended--

~~15~~ (1) by amending paragraph (1)(E) to read as follows:

16 `` (E) an individual first employed by the
17 government of the District of Columbia before October
18 1, 1987;'';

19 (2) by amending paragraph (3)(A) to read as follows:

20 `` (A) an employee who retires--

21 `` (i) on an immediate annuity under
22 subchapter III of chapter 83 of this title, or
23 another retirement system for employees of the
24 Government, after 5 or more years of service;

25 `` (ii) under section 8412 or 8414 of this

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1 title; or

2 `` (iii) for disability under subchapter III
3 of chapter 83 of this title, chapter 84 of this
4 title, or another retirement system for employees
5 of the Government;'';

6 (3) in paragraph (4), by inserting ``or chapter 84''
7 after ``83'';

8 (4) in paragraph (10)(C)(i), by inserting ``or 8467''
9 after ``8345(j)'' , by inserting ``or 8445'' after
10 ``8341(h)'' , and by striking out ``System),'' and
11 inserting in lieu thereof ``System or the Federal
12 Employees' Retirement System),''; and

13 (5) in paragraph (10)(C)(ii)--

14 (A) by striking out ``or 8345(j)'' and inserting,
15 in lieu thereof ``8345(j), 8445, or 8467'' and by
16 striking out ``System)'' and inserting in lieu
17 thereof ``System or the Federal Employees' Retirement
18 System)''; and

19 (B) by inserting ``or 8417(b)'' after
20 ``8339(j)(3)''.

21 (m) AMENDMENTS TO SECTION 8905.--Section 8905(c)(1) of
22 title 5, United States Code, is amended--

23 (1) in subparagraph (B), by inserting ``or 8417(b)''
24 after ``8339(j)(3)''; and

25 (2) in the second sentence, by striking out ``or

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1 8345(j)'' and inserting in lieu thereof ``8345(j), 8445,
2 or 8467''.

3 TITLE III--MISCELLANEOUS PROVISIONS RELATING TO THE FEDERAL
4 EMPLOYEES' RETIREMENT SYSTEM AND THE CIVIL SERVICE RETIREMENT
5 SYSTEM

6 SEC. 301. ELECTIONS.

7 (a) ELECTIONS FOR INDIVIDUALS SUBJECT TO THE CIVIL
8 SERVICE RETIREMENT SYSTEM.--(1)(A) Any individual (other than
9 an individual under subsection (b)) who, as of June 30, 1987,
10 is employed by the Federal Government, and who is then
11 subject to subchapter III of chapter 83 of title 5, United
12 States Code, may elect to become subject to chapter 84 of
13 such title.

14 (B) An election under this paragraph may not be made
15 before July 1, 1987, or after December 31, 1987.

16 (2)(A) Any individual who, after June 30, 1987, becomes
17 reemployed by the Federal Government, and who is then subject
18 to subchapter III of chapter 83 of title 5, United States
19 Code, may elect to become subject to chapter 84 of such
20 title.

21 (B) An election under this paragraph shall not be
22 effective unless it is made during the six-month period
23 beginning on the date on which reemployment commences.

24 (b) ELECTIONS FOR CERTAIN INDIVIDUALS SERVING
25 CONTINUOUSLY SINCE DECEMBER 31, 1983.--The following rules

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1 shall apply in the case of any individual described in
2 section 8402(b)(1) of title 5, United States Code:

3 (1) If, as of December 31, 1986, the individual is
4 subject to subchapter III of chapter 83 of title 5,
5 United States Code, but is not subject to section 204 of
6 the Federal Employees' Retirement Contribution Temporary
7 Adjustment Act of 1983, the individual shall remain so
8 subject to such subchapter unless the individual elects,
9 after June 30, 1987, and before January 1, 1988--

10 (A) to become subject to such subchapter under
11 the same terms and conditions as apply in the case of
12 an individual described in section 8402(b)(2) of such
13 title who is subject to such subchapter; or

14 (B) to become subject to ~~chapter 84~~ of such
15 title.

16 An individual eligible to make an election under this
17 paragraph may make the election described in subparagraph
18 (A) or (B), but not both.

19 (2) If, as of December 31, 1986, the individual is
20 subject to subchapter III of chapter 83 of title 5,
21 United States Code, and is also subject to section 204 of
22 the Federal Employees' Retirement Contribution Temporary
23 Adjustment Act of 1983, the individual--

24 (A) shall, as of January 1, 1987, become subject
25 to such subchapter under the same terms and

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1 conditions as apply in the case of an individual
2 described in section 8402(b)(2) of such title who is
3 subject to such subchapter; and

4 (B) may (during the six-month period described in
5 subsection (a)(1)(B)) elect to become subject to
6 chapter 84 of such title.

7 (3)(A)(i) If, as of December 31, 1986, the individual
8 is not subject to subchapter III of chapter 83 of title
9 5, United States Code, the individual may, during the six-
10 month period described in subsection (a)(1)(B), and if
11 such individual has not since become subject to such
12 subchapter pursuant to notification under section 8331(2)
13 of such title, elect to become subject to chapter 84 of
14 such title.

15 ~~(ii) An individual who makes an election under this~~
16 subparagraph ceases to be eligible to become subject to
17 subchapter III of chapter 83 of title 5, United States
18 Code, pursuant to notification under section 8331(2) of
19 such title.

20 (B) Except as provided in subparagraph (A)(ii),
21 nothing in this paragraph shall preclude an individual
22 from becoming subject to subchapter III of chapter 83 of
23 title 5, United States Code, pursuant to notification
24 under section 8331(2) of such title. However, an
25 individual who becomes subject to such subchapter

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1 pursuant to notification under such section 8331(2) after
2 December 31, 1986, shall become subject to such
3 subchapter under the same terms and conditions as apply
4 in the case of an individual described in section
5 8402(b)(2) of such title who is subject to such
6 subchapter.

7 (c) EFFECTIVE DATE; IRREVOCABILITY.--An election made
8 under this section--

9 (1) shall take effect beginning with the first pay
10 period beginning after the date of the election; and

11 (2) shall be irrevocable.

12 (d) CONDITION FOR MAKING AN ELECTION; EXTENSION TO
13 SATISFY CONDITION.--(1) An election under this section to
14 become subject to chapter 84 of title 5, United States Code,
15 ~~shall not be~~ considered effective in the case of an
16 individual having one or more former spouses, unless the
17 election is made with the written consent of such former
18 spouse (or each such former spouse, if there is more than
19 one).

20 (2)(A) This subsection applies with respect to a former
21 spouse who (based on the service of the individual involved)
22 is entitled to benefits under section 8341(h) or 8345(j) of
23 title 5, United States Code, under the terms of a decree of
24 divorce or annulment, or a court order or court-approved
25 property settlement incident to any such decree, with respect

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1 to which the Office of Personnel Management has been duly
2 notified.

3 (B) This subsection does not apply with respect to a
4 former spouse who has ceased to be so entitled as a result of
5 remarrying before age 55.

6 (3) The requirement under paragraph (1) shall be
7 considered satisfied with respect to a former spouse if the
8 individual seeking to make the election establishes to the
9 satisfaction of the Office (in accordance with regulations
10 prescribed by the Office)--

11 (A) that the former spouse's whereabouts cannot be
12 determined; or

13 (B) that, due to exceptional circumstances, requiring
14 the individual to seek the former spouse's consent would
15 otherwise be inappropriate.

16 (4)(A) The Office shall, upon application of an
17 individual, grant an extension for such individual to make an
18 election referred to in paragraph (1) if such individual--

19 (i) files application for extension before the end of
20 the period during which such individual would otherwise
21 be eligible to make such election; and

22 (ii) demonstrates to the satisfaction of the Office
23 that the extension is needed to secure the modification
24 of a decree of divorce or annulment (or a court order or
25 court-approved property settlement incident to any such

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1 decree) in order to satisfy the consent requirement under
2 paragraph (1).

3 (B) An extension under this paragraph shall be for 6
4 months or for such longer period as the Office considers
5 appropriate.

6 (e) EXCLUSIONS.--This section does not apply to an
7 individual under section 8331(1)(G) of title 5, United States
8 Code.

9 SEC. 302. EFFECT OF AN ELECTION UNDER SECTION 301 TO BECOME
10 SUBJECT TO THE FEDERAL EMPLOYEES' RETIREMENT
11 SYSTEM.

12 (a) GENERAL AND SPECIAL RULES.--All provisions of chapter
13 84 of title 5, United States Code (including those relating
14 to disability benefits, survivor benefits, and any reductions
15 to provide for survivor benefits) shall apply with respect to
16 any individual who becomes subject to such chapter pursuant
17 to an election under section 301, except if, or to the extent
18 that, such provisions are inconsistent with the following:

19 (1)(A) Any civilian service which is performed before
20 the effective date of the election under section 301
21 shall not be creditable under chapter 84 of title 5,
22 United States Code, except as otherwise provided in this
23 subsection.

24 (B) Any service described in subparagraph (A) which
25 is covered service within the meaning of section

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1 203(a)(3) of the Federal Employees' Retirement
2 Contribution Temporary Adjustment Act of 1983 (97 Stat.
3 1107; 5 U.S.C. 8331 note) (hereinafter in this section
4 referred to as ``covered service'') shall be creditable
5 under chapter 84 of title 5, United States Code, if--

6 (i) with respect to any such service performed
7 before January 1, 1987, 1.3 percent of basic pay for
8 such service was withheld in accordance with such Act
9 or, if either such withholding was not made or was
10 made, but the amount so withheld was subsequently
11 refunded, 1.3 percent of basic pay for such period is
12 deposited to the credit of the Civil Service
13 Retirement and Disability Fund (hereinafter in this
14 section referred to as the ``Fund''); with interest
15 (computed under section 8334(e) of such title); and

16 (ii) with respect to any such service performed
17 after December 31, 1986, and before the effective
18 date of the election, an amount equal to the
19 percentage of basic pay for such service which would
20 be required to be withheld under section 8422(a) of
21 title 5, United States Code, has been contributed to
22 the Fund by the individual involved, whether by
23 withholdings from pay or, if either no withholding
24 was made or was made, but the amount withheld was
25 subsequently refunded, the aforementioned percentage

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1 of basic pay for such period is deposited to the
2 credit of the Fund, with interest (computed under
3 section 8334(e) of such title).

4 (C) Any service described in subparagraph (A)--

5 (i) which is not covered service;

6 (ii) which constitutes service of a type

7 described in section 8411(b)(3) of title 5, United
8 States Code (determined without regard to whether
9 such service was performed before, on, or after
10 January 1, 1989, and without regard to the provisions
11 of section 8411(f) of such title); and

12 (iii) which, in the aggregate, is equal to less
13 than 5 years;

14 shall be creditable under chapter 84 of such title,
15 subject to section 8411(f) of such title.

16 (D) Any service described in subparagraph (A)--

17 (i) which is not covered service;

18 (ii) which constitutes service of a type .

19 described in section 8411(b)(3) of title 5, United
20 States Code (determined without regard to whether
21 such service was performed before, on, or after
22 January 1, 1989, and without regard to the provisions
23 of section 8411(f) of such title); and

24 (iii) which, in the aggregate, is equal to 5
25 years or more;

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1 shall be creditable for purposes of--

2 (I) section 8410 of such title, relating to the
3 minimum period of civilian service required to be
4 eligible for an annuity;

5 (II) any provision of section 8412 (other than
6 subsection (d) or (e) thereof), 8413, 8414,
7 8442(b)(1)(B), or 8451 of such title which relates to
8 a minimum period of service for entitlement to an
9 annuity;

10 (III) the provisions of paragraphs (4) and (6);

11 (IV) any provision of section 8412(d) of such
12 title which relates to a minimum period of service
13 for entitlement to an annuity, but only if and to the
14 extent that the service described in subparagraph (A)
15 ~~was as a law enforcement officer or firefighter; and~~

16 (V) any provision of section 8412(e) of such
17 title which relates to a minimum period of service
18 for entitlement to an annuity, but only if and to the
19 extent that the service described in subparagraph (A)
20 was as an air traffic controller.

21 (2)(A) Except as provided in subparagraph (B), the
22 creditability under chapter 84 of title 5, United States
23 Code, of any military service which is performed before
24 the effective date of the election under section 301
25 shall be determined in accordance with applicable

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1 provisions of such chapter.

2 (B) If the electing individual has performed service
3 described in clauses (i) through (iii) of paragraph
4 (1)(D), service described in subparagraph (A) which, but
5 for the provisions of subsection (b), would be creditable
6 under subchapter III of chapter 83 of title 5, United
7 States Code, as in effect on December 31, 1986, shall be
8 creditable for purposes of--

9 (i) any provision of section 8412 (other than
10 subsection (d) or (e) thereof), 8413, or 8414 of such
11 title which relates to a minimum period of service
12 for entitlement to an annuity; and

13 (ii) the provisions of paragraph (4).

14 (3)(A)(i) If the electing individual becomes entitled
15 to an annuity under subchapter II of chapter 84 of title

16 5, United States Code, or dies leaving a survivor or
17 survivors entitled to benefits under subchapter IV of
18 such chapter, the annuity for such individual shall be
19 equal to the sum of the individual's accrued benefits
20 under the Civil Service Retirement System (as determined
21 under paragraph (4)) and the individual's accrued
22 benefits under the Federal Employees' Retirement System
23 (as determined under paragraph (5)).

24 (ii) An annuity computed under this subparagraph
25 shall be deemed to be the individual's annuity computed

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1 under section 8415 of title 5, United States Code.

2 (B) If the electing individual becomes entitled to an
3 annuity under subchapter V of chapter 84 of title 5,
4 United States Code, and if it becomes necessary to
5 compute an annuity under section 8415 of such title with
6 respect to such individual as a result of such
7 individual's having become so entitled, the methodology
8 set forth in subparagraph (A) shall be used in computing
9 any such annuity under section 8415.

10 (4) Except as provided in paragraph (12)(B), accrued
11 benefits under this paragraph shall be computed in
12 accordance with applicable provisions of subchapter III
13 of chapter 83 of title 5, United States Code (but without
14 regard to subsection (j) or (k), or the second sentence
15 of subsection (e), of section 8339 of such title) using
16 only any civilian service under paragraph (1)(D), and any
17 military service under paragraph (2)(B), which would be
18 creditable for purposes of computing an annuity under
19 such subchapter.

20 (5) Accrued benefits under this paragraph shall be
21 computed under section 8415 of title 5, United States
22 Code, using--

23 (A) total service creditable under chapter 84 of
24 such title which is performed on or after the
25 effective date of the election under section 301; and

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1 (B) with respect to service performed before such
2 effective date--

3 (i) creditable civilian service (as
4 determined under applicable provisions of this
5 subsection) other than any service described in
6 paragraph (1)(D); and

7 (ii) creditable military service (as
8 determined under applicable provisions of this
9 subsection) other than any service described in
10 paragraph (2)(B).

11 (6)(A) For purposes of any computation under
12 paragraph (4) or (5), the average pay to be used shall be
13 the largest annual rate resulting from averaging the
14 individual's rates of basic pay in effect over any 3
15 consecutive years of creditable service or, in the case
16 of an annuity based on service of less than 3 years, over
17 the total period of service so creditable, with each rate
18 weighted by the period it was in effect.

19 (B) For purposes of subparagraph (A), service shall
20 be considered creditable if it would be considered
21 creditable for purposes of determining average pay under
22 chapter 83 or 84 of title 5, United States Code.

23 (7) The cost-of-living adjustments for the annuity of
24 the electing individual shall be made as follows:

25 (A) The portion of the annuity attributable to

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1 paragraph (4) shall be adjusted at the time and in
2 the amount provided for under section 8340 of title
3 5, United States Code.

4 (B) The portion of the annuity attributable to
5 paragraph (5) shall be adjusted at the time and in
6 the amount provided for under section 8462 of title
7 5, United States Code.

8 (8) For purposes of any computation under paragraph
9 (4) in the case of an individual who retires under
10 section 8412 or 8414 of title 5, United States Code, or
11 who dies leaving a survivor or survivors entitled to
12 benefits under subchapter IV of such chapter, sick leave
13 creditable under section 8339(m) of such title shall be
14 equal to the number of days of unused sick leave to the
15 individual's credit as of the date of retirement or as of
16 the effective date of the individual's election under
17 section 301, whichever is less.

18 (9) In computing the annuity under paragraph (3) for
19 an individual retiring under section 8412(g) or 8413(b)
20 of title 5, United States Code, the reduction under
21 section 8415(f) of such title shall apply with respect to
22 the sum computed under such paragraph.

23 (10) A supplementary annuity payment under section
24 8421 of title 5, United States Code, shall be computed
25 using the same service as is used for the computation

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1 under paragraph (5).

2 (11) Effective from its commencing date, an annuity
3 payable to an annuitant's survivor (other than a child
4 under section 8443 of title 5, United States Code) shall
5 be increased by the total percent by which the deceased
6 annuitant's annuity was increased under paragraph (7).

7 (12)(A) If the electing individual is subject to
8 section 8344 of title 5, United States Code, at the time
9 of making the election, payment of annuity benefits
10 otherwise payable to such individual under subchapter III
11 of chapter 83 of such title (and any related deductions
12 from pay) shall terminate as of the effective date of the
13 election.

14 (B) ~~Accrued benefits under paragraph (4) for an~~
15 ~~individual described in subparagraph (A) shall be~~
16 ~~computed--~~

17 (i) in accordance with applicable provisions of
18 subchapter III of chapter 83 of title 5, United
19 States Code (but without regard to subsection (j) or
20 (k), or the second sentence of subsection (e), of
21 section 8339 of such title) using only any civilian
22 service under paragraph (1)(D), and any military
23 service under paragraph (2)(B), which would be
24 creditable for purposes of computing an annuity under
25 such subchapter; and

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1 (ii) as if the individual's reemployment
2 terminated on the effective date of the election.

3 (b) CHAPTER 83 GENERALLY INAPPLICABLE.--(1) Except as
4 provided in subsection (a) or paragraph (2), subchapter III
5 of chapter 83 of title 5, United States Code, shall not apply
6 with respect to any individual who becomes subject to chapter
7 84 of title 5, United States Code, pursuant to an election
8 under section 301.

9 (2) Nothing in paragraph (1), or in subchapter III of
10 chapter 83 of title 5, United States Code, shall preclude--

11 (A) the making of a deposit under such subchapter
12 with respect to any civilian service under subsection
13 (a)(1)(D) or military service under subsection (a)(2)(B)
14 either by the electing individual or, for purposes of
15 survivor annuities, by a survivor of such individual.

16 (B) Nothing in paragraph (1) shall preclude the
17 payment of any lump-sum credit in accordance with section
18 8342 of title 5, United States Code.

19 (c) REFUNDS RELATING TO CERTAIN CIVILIAN SERVICE.--(1)
20 Any individual who makes an election under section 301 to
21 become subject to chapter 84 and who, with respect to any
22 period before the effective date of the election, has made a
23 contribution to the Civil Service Retirement System (whether
24 by deductions from pay or by a deposit or redeposit) and has
25 not taken a refund of the contribution (as so made), shall be

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1 entitled to a refund equal to--

2 (A) for a period of service under clause (i) of
3 subsection (a)(1)(B), the amount by which--

4 (i) the amount contributed with respect to such
5 period, exceeds

6 (ii) the amount required under such clause (i)
7 with respect to such period;

8 (B) for a period of service under clause (ii) of
9 subsection (a)(1)(B), the amount by which--

10 (i) the amount so contributed with respect to
11 such period, exceeds

12 (ii) the amount required under such clause (ii)
13 with respect to such period; and

14 (C) for a period of service under subparagraph (C) of
15 subsection (a)(1), the amount by which--

16 (i) the amount so contributed with respect to
17 such period, exceeds

18 (ii) the amount required under such subparagraph
19 with respect to such period.

20 (2) A refund under this subsection--

21 (A) shall be payable with interest, computed at the
22 rate applicable for the period involved under section
23 8331(8)(C) of title 5, United States Code, but only if
24 such interest would be payable pursuant to an application
25 for a lump-sum credit appropriately filed under

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1 subchapter III of chapter 83 of such title; and

2 (B) shall be payable upon written application

3 therefor filed with the Office of Personnel Management.

4 SEC. 303. PROVISIONS RELATING TO AN ELECTION TO BECOME

5 SUBJECT TO CHAPTER 83 SUBJECT TO CERTAIN

6 OFFSETS RELATING TO SOCIAL SECURITY.

7 (a) REFUND.--Any individual who makes an election under
8 section 301(b)(1)(A) shall, upon written application to the
9 Office of Personnel Management, be entitled to a refund equal
10 to--

11 (1) for the period beginning on January 1, 1984, and
12 ending on December 31, 1986, the amount by which--

13 (A) the total amount deducted from such
14 individual's basic pay under section 8334(a)(1) of
15 title 5, United States Code, for such period, exceeds

16 (B) 1.3 percent of such individual's total basic
17 pay for such period; and

18 (2) for the period beginning on January 1, 1987, and
19 ending on the day before the effective date of the
20 election, the amount by which--

21 (A) the total amount deducted from such
22 individual's basic pay under such section 8334(a)(1)
23 for such period, exceeds

24 (B) the total amount which would have been
25 deducted if such individual's basic pay had instead

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1 been subject to section 8334(k) of such title during
2 such period.

3 (b) DEPOSIT REQUIREMENTS.--(1) In the case of an
4 individual who becomes subject to subchapter III of chapter
5 83 of title 5, United States Code, pursuant to notification
6 as described in the second sentence of section 301(b)(3)(B),
7 service performed by such individual before the effective
8 date of the notification shall not be considered creditable
9 under such subchapter unless--

10 (A) for any service during the period beginning on
11 January 1, 1987, and ending on the day before such
12 effective date, there is deposited to the credit of the
13 Fund a percentage of basic pay for such period equal to
14 the percentage which would have applied under section
15 8334(k) of such title if such individual's pay had been
16 subject to such section during such period;

17 (B) for any period of service beginning on January 1,
18 1984, and ending on December 31, 1986, there is deposited
19 to the credit of the Fund an amount equal to 1.3 percent
20 of basic pay for such period; and

21 (C) for any period of service before January 1, 1984,
22 there is deposited to the credit of the Fund any amount
23 required with respect to such period under such
24 subchapter.

25 (2) A deposit under this subsection may be made by the

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1 individual or, for purposes of survivor annuities, a survivor
2 of such individual.

3 SEC. 304. AMENDMENTS RELATING TO SOCIAL SECURITY.

4 (a) AMENDMENTS TO SOCIAL SECURITY ACT.--Section 210(a)(5)
5 of the Social Security Act is amended--

6 (1) by striking out ``or`` at the end of subparagraph

7 (F);

8 (2) by striking out the semicolon at the end of
9 subparagraph (G) and inserting in lieu thereof `` , or ``;

10 and

11 (3) by adding at the end thereof the following:

12 `` (H) service performed by an individual on or
13 after the effective date of an election by such
14 individual under section 301(a) of the Federal
15 Employees' Retirement System Act of 1986 to become
16 subject to chapter 84 of title 5, United States
17 Code; ``.

18 (b) AMENDMENTS TO THE INTERNAL REVENUE CODE OF
19 1954.--Section 3121(b)(5) of the Internal Revenue Code of
20 1954 is amended--

21 (1) by striking out ``or`` at the end of subparagraph
22 (F);

23 (2) by striking out the semicolon at the end of
24 subparagraph (G) and inserting in lieu thereof `` , or ``;
25 and

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1 (3) by adding at the end thereof the following:
2 (H) service performed by an individual on or
3 after the effective date of an election by such
4 individual under section 301(a) of the Federal
5 Employees' Retirement System Act of 1986 to become
6 subject to chapter 84 of title 5, United States
7 Code;''.

8 SEC. 305. EXTENSION OF FEDERAL EMPLOYEES' RETIREMENT

9 CONTRIBUTION TEMPORARY ADJUSTMENT ACT OF 1983;
10 REFUND OF EXCESS CONTRIBUTIONS.

11 (a) EXTENSION.--The Federal Employees' Retirement
12 Contribution Temporary Adjustment Act of 1983 (97 Stat. 1106;
13 5 U.S.C. 8331 note) is amended--

14 (1) in sections 202(6), 203(a)(4)(A), 203(a)(4)(B),
15 204(a), and 206(b)(2)(A)(i) by striking ``May 1, 1986''
16 each place it appears and inserting ``January 1, 1987'',
17 and in sections 202(1) and 206(c)(3) by striking
18 ``January 1, 1986'' and inserting ``January 1, 1987'';
19 and

20 (2) in subsections (b) and (c) of section 205, by
21 striking out ``and 1986'' and inserting in lieu thereof
22 ``1986, and 1987''.

23 (b) REFUNDS.--(1) The amendments made by subsection (a)
24 shall be effective as of May 1, 1986.

25 (2) Any refund payable to an individual as a result of

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1 paragraph (1) shall be paid out of funds of the appropriate
2 retirement system.

3 (3) For purposes of this subsection, the term
4 ``retirement system`` means a covered retirement system as
5 defined by section 203(a)(2) of the Federal Employees'
6 Retirement Contribution Temporary Adjustment Act of 1983 (97
7 Stat. 1107; 5 U.S.C. 8331 note).

8 SEC. 306. APPLICABILITY TO THE UNITED STATES POSTAL SERVICE.

9 Section 1005(d) of title 39, United States Code, is
10 amended to read as follows:

11 `` (d) Officers and employees of the Postal Service (other
12 than the Governors) shall be covered by chapters 83 and 84 of
13 title 5. The Postal Service shall withhold from pay and shall
14 pay into the Civil Service Retirement and Disability Fund the
15 amounts specified in or determined under such chapter 83 and
16 subchapter II of such chapter 84, respectively. The Postal
17 Service shall pay into the Federal Retirement Thrift Savings
18 Fund the amounts specified in or determined under subchapters
19 III and VII of such chapter 84.``.

20 SEC. 307. USE OF ``NORMAL-COST PERCENTAGE``.

21 Notwithstanding any other provision of law, the normal-
22 cost percentage (as defined by section 8401(23) of title 5,
23 United States Code, as added by this Act) of the Federal
24 Employees' Retirement System shall be used to value the cost
25 of the System for all purposes in which the cost of the

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1 System is required to be determined by the Federal
2 Government, including any comparisons between the cost of
3 performing commercial activities under contract with
4 commercial sources and the cost of performing those
5 activities using Government facilities and personnel.

6 SEC. 308. RETIREMENT STUDY.

7 (a) STUDY AND PLAN.--The Secretary of Defense and
8 Secretary of Transportation shall conduct a study of the
9 retirement systems provided for employees of nonappropriated
10 fund instrumentalities of the United States under their
11 respective jurisdictions and shall develop a feasible plan or
12 plans to provide portability of vested retirement benefits
13 among such retirement systems and other Federal Government
14 retirement systems.

15 (b) REPORT.--Not later than 180 days after the date of
16 enactment of this Act, the Secretary of Defense and Secretary
17 of Transportation shall transmit a report to the Congress
18 describing the plan or plans developed pursuant to subsection
19 (a) and the anticipated schedule for the implementation of
20 such plan or plans.

21 SEC. 309. REPEAL OF AUTOMATIC TRANSFER PROVISION.

22 Section 207 of the Federal Employees' Retirement
23 Contribution Temporary Adjustment Act of 1983 (97 Stat. 1111;
24 5 U.S.C. 8331 note) is repealed.

25 TITLE IV--FOREIGN SERVICE PROVISIONS

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TITLE V--CENTRAL INTELLIGENCE AGENCY PROVISIONS

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TITLE VI--AUTHORIZATION OF APPROPRIATIONS; EFFECTIVE DATES

7 [SEC. 601. AUTHORIZATION OF APPROPRIATIONS FOR CERTAIN

8

EXPENSES OF THE FEDERAL RETIREMENT THRIFT

9

INVESTMENT MANAGEMENT SYSTEM.

10

(a) TEMPORARY ALTERNATIVE FUNDING.--Notwithstanding

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section 8434(c)(3) of title 5, United States Code (as added

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by section 101 of this Act), the expenses incurred in the

13

administration of the Federal Retirement Thrift Investment

14

Management System under subchapter VII of chapter 84 of such

15

title (as so added) during fiscal years 1986 and 1987 shall

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be paid from sums appropriated pursuant to subsection (b).

17

(b) AUTHORIZATION OF APPROPRIATIONS.--There are

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authorized to be appropriated to the Federal Retirement

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Thrift Investment Board, for fiscal years 1986 and 1987, such

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sums as may be necessary to pay the expenses incurred in the

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administration of the Federal Retirement Thrift Investment

22

Management System during such fiscal years.]

23

[SEC. 602. EFFECTIVE DATES.

24

(a) IN GENERAL.--Except as provided in subsection (b),

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this Act and the amendments made by this Act shall take

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1 effect on January 1, 1987.

2 (b) EXCEPTIONS.--(1) Subchapter VII of chapter 84 of
3 title 5, United States Code, as added by section 101 of this
4 Act, shall take effect on the date of the enactment of this
5 Act.

6 (2) Except as provided in section 305 of this Act, title
7 III of this Act, and the amendments made by such title, shall
8 take effect on the date of the enactment of this Act.

9 (3) The amendments made by sections 204 and 205 of this
10 Act shall take effect on the date of the enactment of this
11 Act.

12 (4) Section 401 of this Act shall take effect on the date
13 of the enactment of this Act.]

14 (c) FIRST COST-OF-LIVING ADJUSTMENT.--(1) For purposes of
15 the first adjustment under subsection (b) ~~of section 8462 of~~
16 title 5, United States Code ~~(as added by section 101 of this~~
17 Act), the base quarter ending on September 30, 1986, shall be
18 considered to have been the base quarter for a year in which
19 an adjustment under such subsection was made.

20 (2) As used in paragraph (1), the term "base quarter"
21 has the meaning provided by section 8462(a)(1) of title 5,
22 United States Code (as added by section 101 of this Act).